

## **ATTACHMENT B**

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 12

In the Matter of:

G4S SECURE SOLUTIONS (USA), INC.,

Employer,

and

INTERNATIONAL UNION, SECURITY,  
POLICE AND FIRE PROFESSIONALS OF  
AMERICA (SPFPA),

Petitioner.

Case No. 12-RC-203988

The above-entitled matter came on for hearing pursuant to notice, before **CRISTINA CORA**, Hearing Officer, at the National Labor Relations Board, 51 SW 1st Avenue, Room 1320, Miami, Florida, on Thursday, August 17, 2017, at 10:00 a.m.

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A P P E A R A N C E S

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1		<u>I N D E X</u>				
2						VOIR
3	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>DIRE</u>
4						
5	Michael A. Mareth	13	33	--	--	22
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1 Please be aware that because supervisory status involves  
2 a statutory exclusion, the parties seeking to exclude  
3 employees on these bases bears the burden of proof. You must  
4 present specific, detailed evidence in support of your  
5 position. General conclusionary statements by witnesses will  
6 not be sufficient. Any questions before we proceed?

7 MR. MOORE: None from the Petitioner.

8 MR. SELEMAN: No questions.

9 HEARING OFFICER CORA: Employer, please present your  
10 first witness.

11 MR. SELEMAN: Employer calls Mike Mareth.

12 (Whereupon,

13 MIKE A. MARETH

14 was called as a witness by and on behalf of the Employer and,  
15 after being first duly sworn, was examined and testified as  
16 follows:)

17 HEARING OFFICER CORA: You may have a seat. Please  
18 state -- oh, sorry. Please state your name and spell it for  
19 the record.

20 THE WITNESS: Michael Alan Mareth, M-i-c-h-a-e-l A-l-a-n  
21 M-a-r, E as in Edward, T as in Tom, H.

22 HEARING OFFICER CORA: Thank you.

23 DIRECT EXAMINATION

24 Q. BY MR. SELEMAN: Mr. Mareth, who are you employed by?

25 A. G4S Regulated Security Solutions, which is a division of

- 1 G4S Secure Solutions U.S., Inc.
- 2 Q. Approximately how long have you been employed by G4S?
- 3 A. Approximately 25 years.
- 4 Q. What is your current position?
- 5 A. I am the senior director of Nuclear Operations.
- 6 Q. And about how long have you held that position?
- 7 A. Approximately a year and a half.
- 8 Q. Generally speaking, what are your job responsibilities
- 9 in that position?
- 10 A. I'm responsible for the oversight of Turkey Point, which
- 11 I'm required to provide visits to the site, and the
- 12 responsibility of ensuring that our contracted guard services
- 13 are executed with our client, which is FPL at Turkey Point.
- 14 And that's done through the staff and the team assigned at
- 15 Turkey Point.
- 16 Q. When you refer to Turkey Point, what are you talking
- 17 about?
- 18 A. Turkey Point is the contract location where we have
- 19 guard services.
- 20 Q. What's located at --
- 21 A. It's a -- Turkey Point is a nuclear power plant.
- 22 Q. What position did you hold with G4S before your current
- 23 one?
- 24 A. I was the project manager at Turkey Point.
- 25 Q. And approximately how long did you hold that position?

1 A. Approximately 8 years.

2 Q. All together, how long have you been involved with  
3 security in the nuclear industry?

4 A. Approximately 34 years.

5 Q Generally speaking, would you please explain what G4S  
6 does at Turkey Point nuclear power plant?

7 A. Yeah. We provide guard services. We're contracted by  
8 FPL at Turkey Point to basically provide patrol-type duties,  
9 assessment, and the -- ultimately, we protect the facility  
10 from nuclear -- excuse me, radiological sabotage. And  
11 there's a lot of various duties that we perform in order to  
12 do that.

13 Q. What does that mean when you say "radiological  
14 sabotage"?

15 A. It's to preclude a Part 100 release, other words,  
16 someone with bad intentions attempting to get into the  
17 facility, doing harm, which would cause a radiological  
18 release to the public.

19 Q. Who does G4S work for at Turkey Point?

20 A. Our client is FPL, Florida Power & Light.

21 Q. Is G4S's work at Turkey Point regulated in any way?

22 A. Yes. It's regulated by the Nuclear Regulatory  
23 Commission, which I may refer to as NRC from this point on.

24 Q. Do G4S's security officers wear uniforms when working at  
25 Turkey Point?

1 A. Yes. We're a paramilitary organization, so we have a  
2 unique uniform and so that we're easily identifiable at the  
3 location for people. It's a little different than local law  
4 enforcement, so there's no confusion what we look like,  
5 should they come on site.

6 Q. Do the G4S personnel carry any weapons when working at  
7 this facility?

8 A. Yes. The employees are qualified with several weapons.  
9 There's a sidearm that they're qualified with, and then  
10 there's a contingency weapon, which is a long gun, that  
11 they're qualified with.

12 HEARING OFFICER CORA: When you say "qualified with,"  
13 what do you mean?

14 THE WITNESS: They have to meet specific criteria with  
15 the state, not only through training but a qualification  
16 course to demonstrate a level of proficiency. And that's  
17 required by the NRC.

18 HEARING OFFICER CORA: Thank you.

19 MR. SELEMAN: I'll show you what's been marked as  
20 Employer's Exhibit 1.

21 **(Employer's Exhibit 1 marked for identification.)**

22 Q. BY MR. SELEMAN: Do you recognize this document?

23 A. I do. This is the Turkey Point organizational chart.  
24 And basically what this identifies is the rank structure. As  
25 I said before, we're a paramilitary organization. So on this



1 particular document, the project manager would be the  
2 highest-ranking person assigned to the site. He has various  
3 staff personnel and training personnel that perform various  
4 shift, excuse me, activities.

5 And then at the bottom of the document, you have the 14  
6 shift captains. And then it identifies after that the  
7 security supervisors, which are the lieutenants. And then  
8 you have the bottom line, which is the security officers.  
9 Each of the team has a number of officers, number of  
10 lieutenants, one specific captain.

11 And basically, the chain is, the security officers  
12 report to the lieutenants, the lieutenants report to the  
13 captain. And then each of the four captains report to the  
14 operations coordinator, and the operations coordinator  
15 reports to the project manager. So, essentially, that's the  
16 organizational chart.

17 Q. And who does the project manager report to?

18 A. Directly to me.

19 Q. Does the Company have any sort of disciplinary process  
20 it follows at Turkey Point?

21 A. Yes. We have a progressive discipline policy. And that  
22 document is what a person would utilize to address any  
23 attendance deficiencies, lates, left earlies, call-outs,  
24 whether they're paid, unpaid, that kind of thing.

25 **(Employer's Exhibit 2 marked for identification.)**

1 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
2 Employer's Exhibit 2. Do you recognize this document?

3 A. I do. This is the company G4S progressive discipline  
4 policy. This document, in particular, is what would be  
5 utilized if there's an attendance deficiency of an employee.  
6 The shift lieutenants and shift captains would be the  
7 personnel that would use this document to determine what  
8 level of discipline, if any, would be applicable due to the  
9 deficiencies -- the attendance deficiency.

10 Q. Generally speaking, how does the progressive nature of  
11 the disciplinary procedure work?

12 A. Again, as I said, it's progressive, so the lowest level  
13 type discipline typically would result in a verbal documented  
14 discipline. Any additional steps within a 12-month period  
15 would be progressively going to a written. And then  
16 ultimately, if a person was in a situation where the  
17 deficiency wasn't corrected, it could result -- well, it  
18 would result in a review of employment, possibly separation.

19 MR. SELEMAN: Move for the -- sorry, go ahead.

20 THE WITNESS: I'm sorry. So that's, that was for  
21 attendance related. And then if there was misconduct --  
22 misconduct, there's basically three levels for that. There's  
23 the lowest level, which is documented verbal warning. It  
24 goes to a written warning, and then the top tier, which is a  
25 Level I, which would result in termination, if warranted.

1           And again, those particular cases, shift lieutenants,  
2   shift captain has the ability to utilize this document to  
3   determine where the misconduct fits appropriately. It could  
4   be a Level III, which is the documented verbal. It could be  
5   a Level II, or it could be ultimately a Level I, which  
6   results in termination. So they have to determine where that  
7   fits in.

8           MR. SELEMAN: Employer moves for the admission of  
9   Employer's Exhibit 2 and Employer's Exhibit 1.

10          MR. MOORE: No objection.

11          HEARING OFFICER CORA: Hearing no objection, Employer's  
12   Exhibit 1 and 2 are admitted into evidence.

13   **(Employer's Exhibits 1 and 2 received in evidence.)**

14   Q.   BY MR. SELEMAN: Have there been any changes in the  
15   lieutenants' role in the issuance of discipline to security  
16   officers?

17   A.   Yes.

18          MR. MOORE: Let me object to the form of the questions.  
19   Changes at some time frame?

20          MR. SELEMAN: Okay.

21   Q.   BY MR. SELEMAN: Have there been any such changes in the  
22   last couple years?

23   A.   Yes. Approximately 2 years ago -- well, first off,  
24   supervisors, lieutenants and captains, have had the ability  
25   to issue discipline, and that's been communicated by myself

1 when I was the project manager there, Juan Rodriguez, through  
2 various means.

3 In approximately the last 2 years, we identified that we  
4 probably weren't meeting that mark as we had expected. So  
5 what we did was reinforce the expectation and basically  
6 rolled -- I started it by communicating with my operations  
7 coordinator, talking through that, what the expectations  
8 were, that lieutenants were supposed to be actively involved  
9 in the disciplinary policy but that I had seen that they  
10 weren't as involved as we had expected.

11 So Juan Rodriguez, the operations coordinator, followed  
12 that up with a document to the -- an email to the shift  
13 supervisors, reinforcing expectation. It was also followed  
14 up with various meetings with the captains to reinforce  
15 expectations of what we expected from the lieutenants going  
16 forward.

17 **(Employer's Exhibit 3 marked for identification.)**

18 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
19 Employer Exhibit 3. Do you recognize this document?

20 A. I do. This is the email that was sent out by the  
21 operations coordinator, Juan Rodriguez. It was an email sent  
22 to the audience that's identified on there, and I was copied  
23 on it. We would have discussed, prior to him putting this  
24 out, what the message was going to be. It would have been  
25 based on our discussions that we had as to when I identified

1 that we weren't hitting the mark as far as the expectation of  
2 lieutenants' involvement with the disciplinary policy.

3 Q. And if you would look at the "To" line of who this email  
4 was sent to, can you identify by category or job  
5 classification who those people were?

6 A. Yeah. Those are the four shift captains plus their  
7 backups. There's training coordinators on there. I'm  
8 identified on there. And there's one individual that's a  
9 training clerical person.

10 Q. And would you please paraphrase for us, you know, what  
11 this message was saying?

12 MR. MOORE: I'm going to object to paraphrasing. The  
13 document --

14 MR. SELEMAN: Okay.

15 MR. MOORE: -- speaks for itself.

16 MR. SELEMAN: Okay. Would you please read to us what  
17 this email was?

18 MR. MOORE: I'll object to reading the document. I  
19 think we can all read.

20 MR. SELEMAN: Well, in light of the fact that the  
21 Company had very little time to prepare for this hearing, and  
22 that we're unlikely to have a chance to brief it after the  
23 fact, I think it's very important that the record reflect  
24 very clearly what was in this email.

25 Normally, when I ask somebody to read material, somebody

1 objects and says it speaks for itself. I asked Mr. Mareth,  
2 as the person that asked that this message go out to people  
3 in various ways, to tell us what this message was intended to  
4 convey.

5 MR. MOORE: The question was whether you asked him to  
6 read this into the record, and I don't see the point of  
7 extending this record by reading something we can all read.

8 HEARING OFFICER CORA: I'm going to sustain the  
9 objection. The document speaks for itself. If you want him  
10 to explain his motivations for sending the email or something  
11 else, you may, but to read it, it's -- if you're going to  
12 move for it to be in the record, then I don't see the need  
13 for him to read it out loud.

14 MR. SELEMAN: I move for the admission of the Employer's  
15 Exhibit 3.

16 MR. MOORE: Can I voir dire the witness about this,  
17 please?

18 HEARING OFFICER CORA: You may.

19 **VOIR DIRE EXAMINATION**

20 Q. BY MR. MOORE: I don't see your name anywhere on this  
21 document. Is that correct?

22 A. My name is on the document. It's Michael Mareth.  
23 It's -- if you look in the "To," I'm copied in the "To."

24 Q. Ah, okay. But the author of this was someone named Juan  
25 Rodriguez?

1 A. That is correct.

2 Q. Is Mr. Rodriguez still employed?

3 A. Yes.

4 Q. And do I understand this was sent out at your direction?

5 A. Correct. Yes.

6 MR. MOORE: Okay. No objection.

7 HEARING OFFICER CORA: Hearing no objection, Employer's  
8 Exhibit 3 is admitted into evidence.

9 **(Employer's Exhibit 3 received in evidence.)**

10 **DIRECT EXAMINATION (cont.)**

11 Q. BY MR. SELEMAN: Mr. Mareth, did you take up any -- take  
12 any -- did you take any actions in follow-up to that email  
13 from Juan Rodriguez to the people on that email?

14 A. Yes. We had meeting, specific with the captains, to  
15 discuss what it is that we felt we were not doing, as far as  
16 meeting the expectation, hitting the mark, communicating that  
17 the captains needed to ensure that the lieutenants were  
18 actively involved in the disciplinary policy, exercising  
19 their own judgment and coming to the shift captains with  
20 recommendations as far as what they believed should be the  
21 appropriate discipline issued, whether it was attendance or  
22 misconduct, because that was the part that we felt that we  
23 weren't hitting the mark on after we first communicated this  
24 previously.

25 And then there would have been individual meetings. I

1 know I had personal individual meetings with the captains,  
2 reinforcing this afterwards as well.

3 Q. What time frame -- when you said that -- you said "we."  
4 First, who is the "we," and also, what time frame were those  
5 meetings in?

6 A. I'm sorry. The "we" would have been the author of this  
7 document, Juan Rodriguez as the operations coordinator, and  
8 myself. And then the time period would have been in the  
9 January to February time period.

10 Q. Of what year?

11 A. Of 2016. That would have been during the time period  
12 where I was transitioning into my new role, but I was still  
13 at the site assigned because a project manager had not been  
14 determined at that point. So I still had kind of dual  
15 responsibility.

16 Q. And then what did you do after that meeting with all of  
17 the captains together?

18 A. Oh, I did -- I personally did follow-ups, as far as  
19 meeting with the captains and discussing the whole purpose of  
20 the email, discussed what it was that I had identified as far  
21 as seeing that the lieutenants were not as actively involved  
22 in this process with the discipline as we felt they needed to  
23 be.

24 Q. Do you recall which captains you spoke to one-on-one?

25 A. Yeah. I would have met with Captain Feldman, Captain



1 Evans, Captain Reyes, and Captain Johnson.

2 Q. Would you go back real quickly and give us everybody's  
3 name again, with their first names, too?

4 A. Sure. Captain Feldman is Charles Feldman. Captain  
5 Evans is Lee Evans. Captain Reyes is Kevin Reyes. And  
6 Captain Johnson is Charlotte Johnson.

7 HEARING OFFICER CORA: I don't see a Feldman in the  
8 Employer's Exhibit 1. Is he still employed by the Company?

9 THE WITNESS: Yeah. He is on -- oops, Exhibit 1,  
10 which -- are we talking the email?

11 HEARING OFFICER CORA: No. I'm talking about the  
12 organizational chart.

13 THE WITNESS: Sure. The -- sorry. The organization  
14 chart shows a Captain Steven Bonnell. Steven Bonnell, at  
15 that time that this email went out, would have been the  
16 backup to Captain Feldman. Captain Feldman has since left  
17 our employment.

18 HEARING OFFICER CORA: Thank you.

19 Q. BY MR. SELEMAN: To the extent you recall one of those  
20 conversations you had one-on-one with a captain, would you  
21 take us through what you told one of those captains and which  
22 one you told?

23 A. Yeah. It would have been similar with all of them, but  
24 take Captain Feldman, who was a dayshift captain. I would --  
25 I communicated that by reviewing some of the discipline that

1 I had seen, I saw that the captain's name was on the  
2 discipline, and it was discipline that should have been  
3 issued by a lieutenant because they had the opportunity to  
4 address the misconduct or attendance, I don't remember  
5 specifically which one it was, because it was at their level  
6 where it would have been like a written or a documented  
7 verbal. And they had that opportunity to exercise and use  
8 their own judgment to come to the conclusion of what type of  
9 discipline should be issued.

10 So I reinforced with Captain Feldman, was that the  
11 expectation was that they have their first-line supervisors,  
12 the lieutenants, be involved in that process, the  
13 disciplinary policy allows for that, and that we wanted them  
14 to be involved in that process. And they needed to coach  
15 them into -- coaching meaning reinforce, explain to them why  
16 they needed to be involved in it, and have them actually  
17 involved in that process.

18 That similar conversation would have taken place with  
19 all four captains.

20 Q. And what does "involved" mean?

21 A. Involved simply means that they can read the policy,  
22 they understand the policy. They can actively determine what  
23 type of discipline should be issued and make a recommendation  
24 based on their understanding of the policy and their  
25 understanding of the either misconduct or the attendance

1 deficiency. And recommendation could be made to the captain.  
2 And the captain should allow them to be involved in that  
3 process to go ahead and issue that discipline.

4 Q. Has there been any change in the last couple of years in  
5 the captains' role in the issuance of discipline, other than  
6 what you just described?

7 A. Captains have always been involved in the issuance of  
8 discipline.

9 HEARING OFFICER CORA: I'm sorry. When you produce  
10 these recommendations made to captains regarding the  
11 disciplines, are you -- can you specify what types of  
12 disciplines you're talking about?

13 THE WITNESS: Misconduct.

14 HEARING OFFICER CORA: Okay.

15 THE WITNESS: Or attendance related.

16 HEARING OFFICER CORA: Okay. And would that involve the  
17 oral counseling and the written and the terminations, or  
18 specifically some of them, no?

19 THE WITNESS: Well, they can certainly make a  
20 recommendation at any level of discipline. It's just that  
21 the lieutenant can't -- per our policy, if it involves a  
22 suspension, they're not the person that actually issues that.  
23 But they certainly can make a recommendation on it.

24 HEARING OFFICER CORA: Thank you.

25 THE WITNESS: And -- okay.

1 He also would have had the same weighted score as the rest of  
2 the personnel on the panel.

3 Q. And was that also considering security officers for a  
4 promotion to the position of captain?

5 A. Yes. That would have been for a lieutenant's position.

6 Q. Any security officers ever serve on one of those panels  
7 with you?

8 A. No.

9 MR. SELEMAN: No further questions.

10 HEARING OFFICER CORA: I just have one quick question.  
11 Perez is not in, listed as being a captain in Employer  
12 Exhibit 1. Is he still employed by the Company?

13 THE WITNESS: No.

14 HEARING OFFICER CORA: Thank you.

15 Petitioner, you may cross the witness.

16 MR. MOORE: Thank you.

17 **CROSS-EXAMINATION**

18 Q. BY MR. MOORE: Mr. Mareth, directing your attention to  
19 Company Exhibit 2, this is what you characterized, and the  
20 label says it's the progressive discipline policy. And  
21 you -- it's the responsibility, you said, of both lieutenants  
22 and captains to use this when they mete out discipline?

23 A. Correct.

24 Q. And you were asked if there had been any changes in the  
25 last couple of years, and you described how you and other

1 management people took steps to, as you characterized,  
2 reinforce expectations of both captains and lieutenants; is  
3 that accurate?

4 A. Correct.

5 Q. There was, however, no change in Company Exhibit 2  
6 accompanying that, was there?

7 A. Correct.

8 Q. Now, do you recall testifying in connection with a Board  
9 case involving the termination of two lieutenants from this  
10 bargaining unit -- excuse me, from this worksite?

11 A. I do.

12 Q. And isn't it a fact that, in the course of testifying,  
13 you testified that these lieutenants, indeed all lieutenants,  
14 were actively involved in the discipline of bargaining unit  
15 -- of employees?

16 A. Correct.

17 Q. Correct? So in light of your testimony here today, that  
18 testimony in that prior case was not accurate, was it?

19 MR. SELEMAN: Objection. Mr. Mareth explained that, as  
20 far as the Company as concerned, these people always had this  
21 authority. He took actions to reinforce the expectation of  
22 what their role was in exercising that authority. There's  
23 nothing inconsistent about it, and the Company stands by the  
24 testimony in that earlier hearing.

25 MR. MOORE: Well, perhaps I can clarify by asking a

1 Q. Okay.

2 A. Yes.

3 Q. Okay. But your testimony here today is you apparently  
4 discovered that wasn't the case, correct?

5 A. My testimony was that they weren't meeting the  
6 expectation as we had expected. We have lieutenants that  
7 issue discipline, but they weren't issuing the discipline as  
8 expected. And what I had done -- what -- how I identified  
9 that is I was reviewing disciplinary records, and I saw  
10 captains' names frequently on those discipline records that I  
11 felt lieutenants should have been involved in the process  
12 because they had the ability to be involved. It was at the  
13 level that they could issue discipline. And that is why I  
14 was questioning it. That's why I spoke to the operations  
15 coordinator. And then ultimately we rolled that down to the  
16 levels I spoke to.

17 Q. All right.

18 A. So it wasn't an issue of that they weren't doing any  
19 issuance of discipline.

20 Q. Well, your testimony, correct me if I'm wrong, was that  
21 lieutenants, as a group, were actively involved in issuing  
22 discipline in these prior two cases, correct?

23 HEARING OFFICER CORA: Can we go off the record a  
24 second?

25 (Off the record from 10:55 a.m. to 11:00 a.m.)

1 lieutenants are supposed to be ones --

2 MR. SELEMAN: Objection. Document speaks for itself.

3 MR. MOORE: Well, I'm asking him about this document,  
4 although he's not the author, but supposedly he --

5 MR. SELEMAN: Objection. Why can you ask him to  
6 paraphrase it but I can't?

7 MR. MOORE: Because this is cross-examination. I'd like  
8 to be able to explore this document.

9 MR. SELEMAN: The objection still applies.

10 HEARING OFFICER CORA: If I can hear the question first.  
11 Can you complete your question?

12 MR. MOORE: All right. Yeah. I'd like to try that.

13 Q. BY MR. MOORE: It says here that lieutenants are  
14 supposed to be the ones putting together coachings and, as  
15 applicable, discipline for their direct reports. So do you  
16 understand this to mean that all discipline applicable to the  
17 security officers under a lieutenant are supposed to be  
18 prepared by the lieutenant?

19 A. The lieutenants have the ability to issue discipline  
20 and/or coachings, and that's what he's referring to.

21 Q. And your testimony is they can do so without the  
22 approval of either a captain or anyone else in the hierarchy?

23 A. They have the ability to use their own independent  
24 judgment to issue discipline.

25 Q. Okay. And are there any limitations on the discipline

1 just left up to the individual to decide? I mean, are they  
2 using criteria? Is there a form, a chart they're using?

3 THE WITNESS: No. It's based on the correctness of the  
4 response. There isn't a chart --

5 HEARING OFFICER CORA: Okay.

6 THE WITNESS: -- like you're describing.

7 HEARING OFFICER CORA: Okay. I have no further  
8 questions.

9 Employer?

10 MR. SELEMAN: Nothing further.

11 MR. MOORE: Nothing else.

12 HEARING OFFICER CORA: You're excused.

13 THE WITNESS: Okay.

14 HEARING OFFICER CORA: Thank you.

15 **(Witness excused.)**

16 MR. SELEMAN: Employer now calls James Scott.

17 HEARING OFFICER CORA: Please raise your right hand.

18 (Whereupon,

19 **JAMES CASEY SCOTT**

20 was called as a witness by and on behalf of the Employer and,  
21 after being first duly sworn, was examined and testified as  
22 follows:)

23 HEARING OFFICER CORA: You may have a seat. Can you  
24 please state your name and spell it for the record?

25 THE WITNESS: My names is James Casey Scott, J-a-m-e-s



1 C-a-s-e-y S-c-o-t-t.

2 HEARING OFFICER CORA: Thank you.

3 DIRECT EXAMINATION

4 Q. BY MR. SELEMAN: Mr. Scott, do you also commonly go by  
5 Casey?

6 A. I do.

7 Q. Who are you employed by?

8 A. I work for G4S Regulated Security Solutions.

9 Q. And about how long have you been employed by G4S?

10 A. Since 2010, so 7 years.

11 Q. What is your current position?

12 A. Currently, I'm the project manager for G4S at Turkey  
13 Point nuclear plant.

14 Q. And about how long have you held that position?

15 A. Approximately a year and a half.

16 Q. So that takes us back to like what?

17 A. March.

18 Q. About March?

19 A. March of 2016.

20 Q. All right. And what was your position before that?

21 A. Prior to that, I was a field supervisor or lieutenant  
22 and backup captain for Delta Team.

23 Q. Okay. Do you recall about how long you served as a  
24 lieutenant?

25 A. I was promoted in September of 2011, so approximately

1 5 years, 6 years.

2 Q. And did you have a position with G4S before you were a  
3 lieutenant at this site?

4 A. I was also a security officer at Turkey Point nuclear.

5 Q. How long did you hold that position?

6 A. Approximately a year and a half. I was hired in  
7 February of 2010.

8 Q. Would you please generally describe your job  
9 responsibilities as project manager?

10 A. So as the project manager for G4S, I oversee the entire  
11 contract security organization. I'm responsible for various  
12 administrative functions, human resources, ensuring  
13 compliance with all of our policies and procedures, and I'm  
14 the primary liaison between the Company and our client, which  
15 is Florida Power & Light, at the site.

16 Q. Is there anybody else who helps you manage this site on  
17 behalf of G4S?

18 A. Yes. I have a staff, so I have a training coordinator  
19 and an operations coordinator. And I have 28 different  
20 supervisors who also help run the individual shifts, 4  
21 shift captains, and 24 lieutenants.

22 **(Employer's Exhibit 4 marked for identification.)**

23 Q. BY MR. SELEMAN: I'm showing you a document that's been  
24 marked as Employer Exhibit 4. Do you recognize this  
25 document?

1 A. I do. This is a Florida Power & Light procedure for  
2 Turkey Point that governs the responsibilities as far as FPL  
3 is concerned for our various security supervisors, being  
4 captains and lieutenants.

5 Q. What is a security supervisor as referred to in this  
6 document?

7 A. This document uses the term "security supervisor" to  
8 mean a lieutenant.

9 Q. What is a security shift supervisor for this document's  
10 purposes?

11 A. The security shift supervisor, or triple S, would be a  
12 captain.

13 Q. Does this document accurately set forth the  
14 responsibilities of the lieutenants as security supervisors?

15 A. It does.

16 Q. Directing your attention to Section 3.1, paragraph 8,  
17 would you tell us what that is talking about?

18 A. So this particular item identifies that security  
19 supervisors or lieutenants are responsible for ensuring that  
20 security officers are properly equipped and qualified before  
21 they're assigned to posts, meaning --

22 HEARING OFFICER CORA: Sorry. For clarity of the  
23 record, that's on page 3?

24 THE WITNESS: That's correct.

25 HEARING OFFICER CORA: Thank you. Sorry.

1       THE WITNESS: So the lieutenants are responsible for  
2 ensuring the security officers are qualified and properly  
3 equipped before putting them on post, which means that  
4 security officers have to meet certain qualifications on a  
5 regular basis in order to be certified or qualified as  
6 security officers. The lieutenants cannot put somebody who  
7 is not qualified into what we would consider an armed  
8 responder position, which is something a security officer  
9 would hold.

10       The lieutenants also validate that the officers are  
11 properly equipped, meaning they have all the required duty  
12 equipment, weapons, communications equipment, required  
13 licensing and documentation on their person before they go on  
14 duty.

15 Q. What's a lieutenant supposed to do if he or she  
16 determines a security officer is not qualified?

17 A. An officer who's not qualified would not be allowed to  
18 go on duty or, if discovered to be not qualified, would be  
19 removed from duty by that lieutenant.

20 Q. Would a security officer lose pay if that happened?

21 A. Potentially. Yes.

22 Q. Directing your attention to the next paragraph,  
23 paragraph 9, what's that one talking about?

24 A. So paragraph 9, also on page 3, covers the fact that  
25 security officers must understand the requirements for a

1 post. So a lieutenant is responsible for briefing an officer  
2 before they go to a post for the first time. So the  
3 lieutenant has to ensure that the officer understands all the  
4 things that the officer must be responsible for as far as, is  
5 he looking at a section of fence or controlling access, so on  
6 and so forth.

7 Q. On the next page, page 4, paragraph 12, what's that item  
8 talking about?

9 A. Lieutenants are responsible for ensuring that security  
10 officers are alert and attentive, or what we would consider  
11 fit for duty, meaning they're not under the influence of  
12 alcohol or any illegal drugs, they're well rested, they're  
13 awake, they're paying attention to their surroundings.

14 The lieutenants also have to ensure that the officers  
15 are properly performing their duties, so if they're  
16 responsible for controlling access, that they're actually  
17 controlling access through a certain area. If they're  
18 responsible for watching a section of the fence, the  
19 lieutenant has to make sure that the officer is actually  
20 watching that section of the fence, or any other of the  
21 myriad of responsibilities the officers have.

22 Q. How are lieutenants expected to ensure that security  
23 officers are alert or attentive?

24 A. Lieutenants do a variety of things. They perform post  
25 inspections where they interact with the officers on a

1 regular basis throughout the shift. Lieutenants may perform  
2 what we call attentiveness checks over the radio or  
3 telephone, where they speak to an officer via communications,  
4 remote communications to make sure that they are awake and  
5 alert.

6 They may require an officer to call in their particular  
7 post responsibilities to ensure the officer knows why they  
8 are at a particular post.

9 Q. What kind of factors would a lieutenant consider in  
10 making a decision one way or the other on that?

11 A. The lieutenant would have to consider his experience  
12 with that officer, understand what that officer's personality  
13 type is like and how that officer would normally present  
14 themselves in terms of posture, the way that he would speak,  
15 his mannerisms, and things like that. So the lieutenants are  
16 qualified to perform fitness for duty assessments where they  
17 would recognize anything aberrant about that, somebody who's  
18 maybe slurring his words or appears drowsy, appears confused,  
19 anything that might indicate that he was not capable of  
20 performing his duties.

21 Q. Can a lieutenant decide that a security officer is not  
22 fit for duty on his or her own?

23 A. Yes. The lieutenants are qualified as what we consider  
24 fitness for duty supervisors, and they do have the ability to  
25 relieve individuals if they believe they are not fit for

1 duty.

2 Q. What would happen to a security officer who was relieved  
3 as not being fit for duty?

4 A. An officer who's not fit for duty might be sent home,  
5 may lose pay.

6 Q. Does this document accurately set forth the  
7 responsibilities of captains as security shift supervisors?

8 A. Yes, it does.

9 Q. Directing your attention to page 4 still, Section 3.2,  
10 paragraph 1, what's that item talking about?

11 A. So because we work in a particularly regulated industry,  
12 we have a lot of policies, procedures, site plans. We have  
13 NRC, our nuclear regulatory requirements that we have to  
14 meet. The security shift supervisor or captain is  
15 responsible for the overall security shift. So anything  
16 security-related that happens during a 12-hour shift is the  
17 responsibility of that captain.

18 So they have to ensure that all the security force  
19 members, lieutenants and officers who report to them, are  
20 performing all their duties as required and are meeting all  
21 those NRC requirements, site procedure requirements and site  
22 policies.

23 Q. And directing your attention to page 5, Section 3.2,  
24 paragraph 2, what's that one about?

25 A. Again, because we're a regulated industry, we have to

1 MR. SELEMAN: Move for the admission of Employer  
2 Exhibit 6.

3 MR. MOORE: No objection.

4 HEARING OFFICER CORA: Hearing no objections, Employer's  
5 Exhibit 6 is admitted into evidence.

6 (Employer's Exhibit 6 received in evidence.)

7 (Employer's Exhibit 7 marked for identification.)

8 Q. BY MR. SELEMAN: And the next one, which probably  
9 everybody wishes I had shown earlier, showing you what's been  
10 marked as Employer Exhibit 7. Are you familiar with this  
11 document?

12 A. Yes. This is the team roster, which is a document that  
13 we use which shows the entire security organization, all the  
14 officers, lieutenants, captains, and staff members that work  
15 for G4S at Turkey Point.

16 Q. And who are the people that are marked in yellow  
17 highlight?

18 A. The yellow highlighted areas are lieutenants.

19 Q. And who is highlighted in green?

20 A. Those would be the captains.

21 Q. How many lieutenants are on each team?

22 A. Each team has six slots for lieutenants. Currently we  
23 have one on medical leave and one new lieutenant in training,  
24 which is why there is that disparity there in the two



1 columns. But there would be normally six lieutenants on each  
2 team.

3 Q. How many security officers does each lieutenant  
4 supervise?

5 A. Each lieutenant would supervise between five and seven  
6 security officers directly.

7 Q. How many captains are on each team?

8 A. There's one captain on each team.

9 Q. Who's above the captain?

10 A. That'll be the security operations coordinator, Juan  
11 Rodriguez.

12 Q. Who's above the operations coordinator?

13 A. That would be me.

14 Q. Is the operations coordinator or the project manager  
15 always present?

16 A. No. We work normal business hours, Monday through  
17 Friday. We're not there typically on nights or weekends.

18 Q. Who's in charge if neither one of the ops coordinator or  
19 the project manager is there?

20 A. The shift captain. The shift captain is always  
21 responsible for everything that takes place on the shift.

22 Q. Is that true when the ops coordinator or the project  
23 manager is on site?

24 A. Yes. Even though we're on site, we're not directly

1 supervising the security force when we're there. We do  
2 observations in the field. We do interact with the shift  
3 captains, lieutenants, and officers, but the captain runs the  
4 shift. And the lieutenants, by extension, run the individual  
5 officers and within their areas of responsibility.

6 MR. SELEMAN: Move for the admission of Employer  
7 Exhibit 7.

8 MR. MOORE: May I voir dire the witness?

9 HEARING OFFICER CORA: You may.

10 VOIR DIRE EXAMINATION

11 Q. BY MR. MOORE: Is this a current staffing? It was  
12 accurate as of today or yesterday?

13 A. This was accurate as of August 1st, 2017.

14 Q. Oh. That's the date up in the --

15 A. Upper left. That's correct.

16 Q. Are there any material changes in the last 17 days, to  
17 your knowledge?

18 A. One officer is on military leave that's not reflected on  
19 this, to my knowledge. There may be a couple of other minor  
20 changes.

21 Q. But in terms of the staffing for captains and  
22 lieutenants, is that correct, to the best of your knowledge?

23 A. Yes, it is.

24 MR. MOORE: No objections.

1 HEARING OFFICER CORA: Hearing no objections, Employer's  
2 Exhibit 7 is admitted into evidence.

3 **(Employer's Exhibit 7 received in evidence.)**

4 HEARING OFFICER CORA: I have a quick question. I see  
5 that S -- I don't know if this was explained, and tell me if  
6 you did, the SAF, what is that?

7 THE WITNESS: Sure. So we have what we call the site  
8 adversary force. We perform drills and exercises to validate  
9 if our strategy is as effective as it is. We have a number  
10 of our security force members, captains -- not captains, I'm  
11 sorry, lieutenants and officers that volunteer to be on this  
12 adversary force. And they basically serve as mock attackers  
13 to attack the plant and give our officers a chance to  
14 practice defending the plant.

15 HEARING OFFICER CORA: Okay. And I heard you mention  
16 the four backups. I think you said backup lieutenants and --

17 THE WITNESS: Backup captains, right.

18 HEARING OFFICER CORA: Backup captains. Who -- how  
19 would -- is it designated who is a backup captain here?

20 THE WITNESS: Right. So if you look on -- you don't see  
21 one in the Alpha column, but in the B team, C team, and D  
22 team column where it says B/U SSS next to a name.

23 HEARING OFFICER CORA: Okay.

24 THE WITNESS: So for Jimmy Aviles, Justin Smith, and  
25 then Christopher Cohen, those are the backup captains or the

1 backup security shift supervisors.

2 HEARING OFFICER CORA: Okay.

3 THE WITNESS: So they hold the rank of lieutenant. And  
4 when the captain is on vacation, they can step in and  
5 actually act as a captain for a shift.

6 HEARING OFFICER CORA: Okay. And there's only a  
7 designation of backup for -- like a backup captain. Are  
8 there any for backup lieutenants, or is it just captain?

9 THE WITNESS: Just captains. Just backup captains.

10 **(Employer's Exhibit 8 marked for identification.)**

11 **DIRECT EXAMINATION (cont.)**

12 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
13 Employer Exhibit 8. Are you familiar with this document?

14 A. Yes. This is a document that our supervisors sign on  
15 promotion that basically outlines some of the  
16 responsibilities that our lieutenants have at the Florida  
17 Power & Light sites.

18 Q. Do you know who signed this document, this one?

19 A. Yes. This is Richard Arias. He's a lieutenant on C  
20 team.

21 Q. Did anyone else sign a similar document?

22 A. Yes. The majority of our supervisors have signed this  
23 document.

24 Q. How do you know that?

25 A. I personally looked in personnel files and validated

1 that we have these on file for the majority of our  
2 lieutenants and captains.

3 MR. SELEMAN: Move for the admission of Employer  
4 Exhibit 8.

5 HEARING OFFICER CORA: Any objections?

6 MR. MOORE: No objection.

7 HEARING OFFICER CORA: Hearing no objections, Employer's  
8 Exhibit 8 is admitted into evidence.

9 **(Employer's Exhibit 8 received in evidence.)**

10 Q. BY MR. SELEMAN: Generally speaking, what's the purpose  
11 of Employer Exhibit 8?

12 A. Exhibit 8 basically outlines some of the supervisory  
13 requirements. So it's a list of expectations that we have of  
14 lieutenants and captains, as far as things that are maybe not  
15 specifically covered in procedures, talking about things like  
16 leading by example, having no tolerance for unsafe acts,  
17 completing tasks on time, just general expectations that we  
18 have of supervisors, where we hold them to I don't want to  
19 say a higher standard, but there are more things required of  
20 them in a supervisory role as lieutenants and captains.

21 **(Employer's Exhibit 9 marked for identification.)**

22 Q. BY MR. SELEMAN: And I've put before you something  
23 marked as Employer Exhibit 9. Do you recognize that  
24 document?

25 A. Yeah. This is a management challenge document. This

1 is, again, another document that we have lieutenants sign  
2 upon promotion.

3 Q. Who signed this document?

4 A. This one, again, is Richard Arias, one of our  
5 lieutenants.

6 Q. To your knowledge, has anybody else signed a similar  
7 document?

8 A. Yes. Again, the majority of our lieutenants and  
9 captains have signed this document.

10 Q. Generally speaking, what's the purpose of this document?

11 A. This is another document that outlines the expectations  
12 for people who hold a supervisory role as a lieutenant or  
13 captain. This asks them to, in their own words, explain some  
14 of their duties and responsibilities, put things into their  
15 own words, and demonstrate that they understand all the  
16 responsibilities that they are going to have as a lieutenant  
17 or captain that they did not necessarily have when they were  
18 in a security officer position.

19 Q. As the project manager, is there any question in your  
20 mind -- strike that.

21 MR. SELEMAN: Move for the admission of Employer  
22 Exhibit 9.

23 HEARING OFFICER CORA: Any objection?

24 MR. MOORE: Well, I object to the extent it's being  
25 offered for the responses of this particular person. If the

1   only purpose of this is to demonstrate that some of the  
2   lieutenants are given this form, then I have no objection.  
3   But beyond that, I don't think it's relevant.

4           MR. SELEMAN: I'm happy to ask a few more questions and  
5   see if that helps provide some added clarity.

6           HEARING OFFICER CORA: Sure.

7   Q.   BY MR. SELEMAN: To your knowledge, who, of the current  
8   lieutenants and captains, have signed a similar document?

9   A.   The overwhelming majority, so there may be one or two  
10   that have not signed this or that we don't have it on file  
11   for, but the overwhelming majority.

12          MR. SELEMAN: With the limitation that Employer's not  
13   offering it for people's specific written answer to the  
14   questions so much as the contents of the document, the  
15   questions itself.

16          HEARING OFFICER CORA: I'm going to allow the admission  
17   of the entire document, and the reader of the record can give  
18   it the weight it deserves.

19   **(Employer's Exhibit 9 received in evidence.)**

20          MR. SELEMAN: Thank you.

21   Q.   BY MR. SELEMAN: Are you familiar with the phrase  
22   "force-on-force"?

23   A.   Yes. Force-on-force is the general term that we use to  
24   describe the drills and exercises that we do to validate our  
25   defensive strategy is effective.

1 Q. For those of us that don't work in the security field at  
2 a nuclear power plant, could you explain that in a little  
3 more detail?

4 A. Okay. So the power plant has a, what we call a  
5 defensive strategy plan, which is basically how we respond to  
6 terrorist attacks, any sort of security emergency like that.  
7 As part of that defensive strategy, you have individuals that  
8 we would consider armed responders. Some of them are in  
9 fixed locations. Some of them would respond to specific  
10 locations based on our strategy. Other ones would respond to  
11 general locations dependent on the nature of the threat.

12 So you would determine where an attack may be coming  
13 from, and you would respond to that location based on the  
14 position that you're fulfilling. Some of those responses are  
15 automatic. Some of those responses would be directed by  
16 supervisors, by lieutenants or captains, filling in the roles  
17 of what we would call the response team leader and the alarm  
18 station operator.

19 Q. Are you able to explain G4S security force response as  
20 part of a force-on-force in detail here today?

21 A. I cannot go into specifics about locations, response  
22 times or numbers of personnel because that's Safeguards  
23 information, but I can certainly talk generic about how we  
24 respond without going into specifics.

25 Q. What does Safeguards information mean?



1 A. Safeguards refers to information that we consider  
2 sensitive, security sensitive or sensitive with regard to  
3 safe shutdown of the plant. So when we talk about the number  
4 of personnel that we have working and the specific kind of  
5 weapons that they carry, anything that might give a potential  
6 attacker some insider knowledge that would give them an  
7 advantage if they were trying to attack the facility would be  
8 stuff that we would consider Safeguards information. And we  
9 would protect that information and restrict its distribution.

10 Q. And when you say the specific number of people working,  
11 are you talking about what's on the roster or actually how  
12 many people literally are working at the site today?

13 A. How many people are actually required to be onsite  
14 today. When I talked about the minimum manning number that  
15 we have, that's something that, for example, I could not  
16 disclose.

17 Q. Do the lieutenants have a role that's different than the  
18 security officers in a force-on-force?

19 A. Yes. Yes, definitely. Lieutenants, as I mentioned,  
20 they're going to fulfill the roles of response team leader or  
21 alarm station operator. The alarm station operators work in  
22 basically our security command centers, where we have  
23 lieutenants there monitoring all of our intrusion detection  
24 systems, so they're watching perimeter alarms, they're  
25 watching camera systems. They're assessing alarms as they

1    come in.  They're communicating alarms where there might need  
2    to be a response by a security officer.

3           In the event of a contingency, a force-on-force type of  
4    scenario, a lieutenant who's working as alarm station  
5    operator would have to implement the defensive strategy, call  
6    the appropriate notification over our communication systems  
7    so we've got our personnel responding to their assigned  
8    locations.

9           The alarm station operator or the lieutenant would have  
10   to make communications as to the location, the size, the  
11   equipment of any potential attackers that are trying to come  
12   into the facility, to ensure that our responders have that  
13   information so they know where to respond and where to expect  
14   the threat to come from.

15          The lieutenant working as the alarm station operator  
16   might make recommendations to the shift captain on  
17   redeployments if he wanted to move personnel around to  
18   different locations based on the nature of the threat.  The  
19   alarm station operators may also communicate with local law  
20   enforcement to keep them apprised of the situation, request  
21   their assistance and direct them as to where to respond.

22          Then we have the response team leader, which would also  
23   be a lieutenant.  That's going to be somebody who's out in a  
24   field location.  And they're going to be responsible for what  
25   we would call generically the response team, which is the

1 group of armed officers that are on duty.

2 So the response team leader has the responsibility to  
3 deploy that response team. Now, as I said, some of them are  
4 going to respond to predetermined locations, and some will  
5 respond to locations that will vary based on the nature of  
6 the attack or the threat. In a situation like that, the  
7 lieutenant's going to use his training, skills, and  
8 experience to deploy those officers most effectively to  
9 effect that strategy.

10 So the lieutenant, as the RTL, may make a decision based  
11 on the conditions of the plant that day to put one officer in  
12 one location that would vary from day to day as conditions  
13 throughout the plant are constantly changing.

14 Q. Do you --

15 A. So --

16 Q. Sorry to --

17 A. So a lieutenant would have to make a determination based  
18 on his knowledge of where the threat is coming from, where  
19 would he best want to position those responders in order to  
20 defend the plant from the threat.

21 Q. Do all the lieutenants serve as a response team leader?

22 A. All lieutenants are qualified as response team leaders.  
23 You have one response team leader who is on duty at any given  
24 time.

25 Q. And does that assignment change each shift that the same

1 team works?

2 A. Yes. Yeah. All lieutenants are qualified to work as  
3 the RTL, and over the course of time, lieutenants will cycle  
4 through that RTL position.

5 Q. So what variables might come into play that a lieutenant  
6 acting as the response team leader would have to consider in  
7 formulating a response?

8 A. The lieutenant's going to have to consider a lot of  
9 factors. So through their training, their skills, and their  
10 experience in our drills and exercises, their knowledge of  
11 the layout of the plant, their knowledge of the current  
12 conditions in the plant, that's going to affect their  
13 decision about where they might deploy some of those  
14 responders.

15 The lieutenant's going to have to take into  
16 consideration things like the equipment or the weapons that  
17 the adversaries are carrying, what location they're in, what  
18 their proximity is to certain vital plant equipment. The  
19 lieutenant's going to have to consider the individual  
20 capabilities of the officers.

21 Every officer is qualified to a certain minimum  
22 standard, but some officers are certainly better at some  
23 things than others. So if you have somebody who's a better  
24 shot, maybe he's a better to position at a further distance.  
25 If you have somebody who's faster, maybe you send him, you

1 know, moving a further distance to interdict some  
2 adversaries.

3 The lieutenant has to take all that stuff into account.  
4 And a good decision would result in the positioning of his  
5 responders in the right location to stop a terrorist attack  
6 and prevent them from reaching their objective. If a  
7 lieutenant makes a bad call, he may put one of those  
8 responders in harm's way in terms of crossfire, friendly fire  
9 from another officer. If he puts them in the entirely wrong  
10 location, maybe the terrorists are able to shoot right past  
11 him and reach their objection and cause radiological  
12 sabotage.

13 Q. When you refer to responders, who are you referring to?

14 A. Responders is a generic term that we use for security  
15 officers that are fulfilling the armed responder role.

16 Q. Did you ever serve as a response team leader when you  
17 were a lieutenant?

18 A. Yes, I did.

19 Q. Could you take us through one of those experiences and  
20 your thought processes while you were acting in that  
21 capacity?

22 A. Sure. So serving as a response team leader, and again,  
23 without going into specifics that would be sensitive, if we  
24 were responding, we were responding to a threat coming from a  
25 certain direction, and I had two to three officers or

1 responders with me, based on my knowledge of the plant, I led  
2 those officers to a specific location that I knew would be  
3 advantageous for us to affect a strategy.

4       Based on communications that we received from the alarm  
5 station operator as to the location and the direction of  
6 travel of the adversaries, I took those officers with me and  
7 positioned them in locations that they could best use their  
8 tactics, concealment, and cover in order to place themselves  
9 in between the vital plant equipment and where we knew that  
10 the attackers were coming from.

11       So based on my knowledge and experience with those  
12 officers and knowledge of their capabilities, I made  
13 decisions about where I wanted to place each officer, which  
14 again, is not covered by any policy or procedure; it was  
15 based on my judgment as a lieutenant at the time.

16 Q. Did you consult with a superior before you made those  
17 decisions --

18 A. No.

19 Q. -- and deployed those people?

20 A. No. Those decisions were mine alone. They were made  
21 based on my knowledge and my experience.

22 Q. Was that a simulated attack?

23 A. Yes. That was a simulated attack.

24 Q. If it was a real attack, based on your decisions, what  
25 could have happened to those security officers that were part

1 of your responders?

2 A. I certainly make decisions as a lieutenant to put those  
3 officers in harm's way. So if I made that bad decision,  
4 again, somebody could potentially lose their life, a security  
5 officer, if I made the wrong call.

6 Q. And if somebody lost their life, presumably they would  
7 lose their job?

8 A. Yes. That's correct.

9 Q. What about the captains? Do they have any particular  
10 role different than the security officers in a force-on-  
11 force?

12 A. Yes. So the captains are responsible for the overall  
13 command and control of the on-duty security force. So the  
14 captains are going to be the primary liaison between local  
15 law enforcement and the security force. The captain is also  
16 going to be communicating with the operations department on  
17 site, which are the individuals that actually operate the  
18 plant equipment, so the captain is going to be communicating  
19 with those individuals. They have certain actions to take in  
20 a security emergency in order to ensure the safe shutdown of  
21 the plant.

22 The captain may make decisions to relocate security  
23 forces at any time, based on the direction of the threat and  
24 knowing where the adversaries are located and where they best  
25 need to or where they can most effectively implement the

1 strategy by relocating people.

2 Q. Is the potential impact on the security officers from  
3 the captain's decisions the same as the impact from the  
4 lieutenant's decisions?

5 A. Yes. If the captain made a decision to relocate one of  
6 those officers, that could certainly put that officer in  
7 harm's way.

8 Q. Is it fair to say that the captain's decisions would  
9 impact more security officers than the lieutenant's  
10 decisions?

11 A. Yes. With the captain overseeing the entire security  
12 force, the captain would definitely have a bigger impact  
13 based on the number of people that captain could be  
14 communicating with, whereas a lieutenant might only be  
15 communicating with a certain group of officers, not the  
16 entire on-duty security force.

17 Q. While you were a lieutenant, were you involved in the  
18 issuance of discipline to security officers?

19 A. Yes, I was.

20 **(Employer's Exhibit 10 marked for identification.)**

21 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
22 Employer Exhibit 10. Do you recognize this document?

23 A. Yes. This is a written warning that issued to a  
24 security officer back in 2013 for some unprofessional  
25 conduct.



1 Q. Who is this issued to?

2 A. This is Camille Harrison, who was a security officer on  
3 Delta Team at the time. She's no longer employed at Turkey  
4 Point.

5 Q. And is that your signature under "Signature of  
6 supervisor"?

7 A. Yes, it is.

8 Q. Would you please walk us through the process that led to  
9 you putting your signature on this document?

10 A. Sure. So what this particular scenario, I had observed  
11 the misconduct by this officer. I decided that it warranted  
12 discipline. So I went and reviewed the discipline policy to  
13 determine what level of discipline was appropriate based on  
14 the events. Within that policy -- the policy gives you  
15 guidance as far as what level of discipline to issue, but  
16 there are certain areas that could be different categories of  
17 severity. We talk about Level I, II, and III offenses.

18 In this case, I rated this as a Level II offense for  
19 failure to meet satisfactory job performance. That's one of  
20 those things that could be considered Level I, II, or III,  
21 based on circumstances that can't be covered by procedure  
22 because the circumstances could be so widely varied.

23 So this was something to where I felt that the level of  
24 misconduct warranted going to a Level II type of offense and  
25 therefore issuing a written warning. I would have talked

1 with my captain, Captain Johnson, to seek out, I don't want  
2 to say concurrence from her, but to get a quality check from  
3 her to ensure that I was on the right page as far as that  
4 being an appropriate level of discipline to issue. And then  
5 I took the action to issue the discipline.

6 Q. Was it your decision to characterize this as a Level II  
7 offense for failure to meet satisfactory job performance?

8 A. Yes. That was my decision.

9 Q. So --

10 HEARING OFFICER CORA: I'm sorry. Just a little -- I'm  
11 a little confused about something. I noticed that -- are  
12 you -- when you say level and type of discipline, are you  
13 referring to Employer's Exhibit 2, where it talks about steps  
14 and levels?

15 THE WITNESS: Yes. Correct.

16 HEARING OFFICER CORA: Okay. I'm looking here at  
17 Employer's Exhibit 2. When you say a Level II, what do you  
18 mean by Level II?

19 THE WITNESS: So there's a section there with, there is  
20 Level I, Level II, and Level III, and each one of those  
21 levels has different bulleted items, so it talks about  
22 certain types of offenses, if you look through there.

23 HEARING OFFICER CORA: Right. So you said -- do you  
24 have Board Exhibit 2 with you?

25 THE WITNESS: I don't believe I have that one.

1 HEARING OFFICER CORA: I can --

2 MR. SELEMAN: They're all up there in the stand.

3 HEARING OFFICER CORA: Okay.

4 MR. SELEMAN: Exhibit, it should be 35.

5 THE WITNESS: No, you didn't give me that one.

6 HEARING OFFICER CORA: Okay.

7 MR. SELEMAN: No, no. It's --

8 HEARING OFFICER CORA: I can give him my copy. Two. I  
9 mean -- I'm sorry. Yeah. Employer's 2.

10 Just so the record's clear, you're saying that this was  
11 what level? Level --

12 THE WITNESS: This particular instance was what I  
13 considered to be a Level II. So if you look on page 7 under  
14 the Level II section, the very last bullet in the Level II  
15 section says, "Failure to meet satisfactory job performance  
16 or behavior standards." If you look down at the very bottom  
17 of that page, under Level III, the very last bullet on Level  
18 III says the exact same thing.

19 So with that particular item, that's something that  
20 could fall into Level I, II, or III in terms of how severe  
21 the offense is, and that's something where the lieutenant  
22 would make a judgment call based on circumstances as they may  
23 be. You can't possibly cover every single one of those in  
24 the policy, so that gives us leeway to make judgment call.

25 HEARING OFFICER CORA: Okay. And then, so here, given

1 this example, you said Level II. So then once you determined  
2 it's a Level II, what did you do?

3 THE WITNESS: Right. So if you look at -- let me find  
4 the right page here for you. So if you go to page 8, you'll  
5 have categories of discipline guidelines here. And then it  
6 lists on the left the different categories, Level I, II, and  
7 III, and then across the top, whether it's a first offense,  
8 second offense, third offense, and so on.

9 So, basically, you would find the level of discipline  
10 and then figure out, is it a first offense or second offense,  
11 and that would give you guidance as to what level. Do you  
12 issue an oral, do you issue written, a termination,  
13 suspension? And again, that's just guidance. That's not set  
14 in stone.

15 HEARING OFFICER CORA: Okay. Thank you.

16 Q. BY MR. SELEMAN: Could you have decided to treat that  
17 incident as a Level III offense?

18 A. Certainly. Yeah. I could have used discretion and  
19 treated that as a Level III offense. I could have conducted  
20 simply a verbal coaching, which would not be discipline, if I  
21 felt that that would be effective. But based on the  
22 circumstances involved in that scenario, I felt that it  
23 warranted a Level II and therefore a written warning for a  
24 first offense at that level.

25 Q. How did you know that you had the authority to take

1 those actions?

2 A. Everything that I have been trained to do during the  
3 promotion process after I was selected to be a lieutenant  
4 trained me that I was a lieutenant. I had the responsibility  
5 and the obligation to uphold all the standards and policies,  
6 one of which is the progressive disciplinary policy. So  
7 that's a core responsibility of being a supervisor or a  
8 lieutenant.

9 MR. SELEMAN: Move for the admission of Employer  
10 Exhibit 10.

11 HEARING OFFICER CORA: Any objections?

12 MR. MOORE: I may voir dire the witness?

13 HEARING OFFICER CORA: Sure.

14 **VOIR DIRE EXAMINATION**

15 Q. BY MR. MOORE: Do I understand that's your signature  
16 under "Signature of supervisor"?

17 A. Yes. That's correct.

18 MR. MOORE: No other questions. I have no objection.

19 HEARING OFFICER CORA: Hearing no objections, Employer's  
20 Exhibit 10 is admitted into evidence.

21 **(Employer's Exhibit 10 received in evidence.)**

22 **DIRECT EXAMINATION (cont.)**

23 Q. BY MR. SELEMAN: We heard a reference earlier to  
24 coachings. Just generally speaking, what's a coaching?

25 A. So a coaching would be a non-disciplinary counseling

1 session of an officer. So if an officer does something that  
2 maybe is not exactly in line with policy and procedure or  
3 violates a policy or procedure, or does something that  
4 violates a more, a management expectation, then you may use  
5 coaching as a technique to correct that behavior without  
6 actually entering the disciplinary process.

7 So the goal of coaching would be fix the behavior  
8 without having to go to the disciplinary process. And that's  
9 something that a lieutenant or a captain would use, based on  
10 their judgment, as to whether or not that would be effective  
11 in correcting behavior.

12 **(Employer's Exhibit 11 marked for identification.)**

13 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
14 Employer Exhibit 11. Please flip through. Are you familiar  
15 with these documents?

16 A. Yes. These are documented coachings that I issued to  
17 three different officers.

18 Q. Would you please walk us through the first one, the one  
19 issued to Rafael Del Pino Lopez, December 16, 2015? Was that  
20 your decision to issue that coaching?

21 A. Yes. I made the decision. This was -- in this  
22 particular event, this was the first time that I had observed  
23 the officer exhibit this sort of behavior or perform this  
24 act. It was actually a procedure violation that he did this.  
25 However, because I'd never seen him do it before, I made the

1 decision to use a documented coaching. I felt that it  
2 warranted documenting the fact that we talked about it. But  
3 I felt that just documenting the coaching would be a  
4 sufficient measure to correct that behavior for him to  
5 improve his performance, moving forward, without requiring  
6 discipline.

7 Q. Could you have decided to issue discipline for this  
8 incident?

9 A. Yes, absolutely. As a procedure violation, this  
10 certainly could have been discipline.

11 Q. And who decided to issue a coaching instead of a  
12 discipline?

13 A. I did.

14 Q. And if you'd please look at the second page, coaching  
15 issued to Richard Rafford, August 3rd, 2013, is that your  
16 signature?

17 A. Yes, it is.

18 Q. Did you decide to issue this coaching?

19 A. Yes. This again was a -- this is another thing that I  
20 observed where a lieutenant -- or, I'm sorry, where an  
21 officer exhibited some unsatisfactory job performance. In  
22 this particular incident, the officer is an outstanding  
23 officer who normally performs at a very high level, had never  
24 been subject, to my knowledge, to any disciplinary action for  
25 job performance-related issues. The officer just, you know,

1 made a bad decision, and I felt that, based on the officer's  
2 history and my knowledge of his past performance, that a  
3 coaching was all that I needed to do in order to correct the  
4 behavior.

5 Although the level of this particular job performance  
6 could have caused significant negative consequences for the  
7 organization, certainly could have gone into a disciplinary  
8 space, but I didn't feel that I needed to do that to correct  
9 that behavior.

10 Q. And at the last page, the coaching issued to Chris  
11 Rugel, August 13, 2013, was that your signature on that  
12 document?

13 A. Yeah. That's my signature.

14 Q. Did you decide to issue a coaching for this incident?

15 A. Yes. This is again a safety-related job performance  
16 issue that I observed. Again, based on this officer's  
17 history, I believed that documenting the coaching would be  
18 sufficient to get him to change the behavior. It was a  
19 safety violation, so it certainly could have resulted in  
20 discipline had I wanted to pursue that route, but I felt that  
21 coaching would have been effective. And it proved to be  
22 effective in changing the behavior.

23 Q. Was there only one right decision for you to make in  
24 issuing this coaching instead of a disciplinary action?

25 A. No. There would have been many right options. Issuing



1 discipline would have been a right decision to make as well.

2 It was just not the decision that I chose to make.

3 MR. SELEMAN: Move for admission of Employer Exhibit 11.

4 MR. MOORE: No objection.

5 HEARING OFFICER CORA: Hearing no objections, Employer's  
6 Exhibit 11 is admitted into evidence.

7 **(Employer's Exhibit 11 received in evidence.)**

8 MR. SELEMAN: I'm about to move into another line of  
9 questioning. I don't know if it's a good time for a 5-minute  
10 break. I mean, I'm fine if everyone else is fine. Just --  
11 okay.

12 HEARING OFFICER CORA: Actually, I'll take that 5-minute  
13 break.

14 MR. SELEMAN: Okay.

15 HEARING OFFICER CORA: Off the record.

16 **(Off the record from 12:10 p.m. to 12:21 p.m.)**

17 HEARING OFFICER CORA: Back on the record.

18 Q. BY MR. SELEMAN: Mr. Scott, when did you become the  
19 project manager at this site?

20 A. I was promoted in March of 2016.

21 Q. In your role as project manager, did you ever take any  
22 actions concerning the role of the lieutenants in the process  
23 of issuing discipline to security officers?

24 A. Yes. Not long after I took the role, I reinforced the  
25 expectations regarding the investigation and independent

1 issuance of discipline by lieutenants to their direct  
2 reports.

3 (Employer's Exhibit 12 marked for identification.)

4 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
5 Employer Exhibit 12. Do you recognize these documents?

6 A. Yes. This is an email that I forwarded and added my  
7 comments to regarding the process for issuance of discipline  
8 and the expectations regarding the supervisors, the  
9 lieutenants' involvement in investigating and issuing  
10 discipline independently.

11 Q. And when was this sent out?

12 A. This I sent out on July 1st, 2016.

13 Q. And the top lines, the first five or six lines with a  
14 date of June 27, 2017, do you know what that is?

15 A. That would have been -- okay. I forwarded -- I archive  
16 my emails, so I would have forwarded this back to myself on  
17 that date. The original date that I sent it out is  
18 underneath, where it says "Forwarded message," on July 1st,  
19 2016.

20 Q. Okay. And in terms of, I guess by category, that email  
21 that you sent out July 1, 2016, what job classifications are  
22 the people that you sent the email to?

23 A. In the "To" line would be all the lieutenants and  
24 captains at that time. Copied on that email were the  
25 operations coordinator, Juan Rodriguez; the training

1 coordinator, Blair Emerson; Mike Mareth, the senior director.

2 Q. And what was your intent in sending out this email  
3 again?

4 A. The intent behind this email was primarily to reinforce  
5 the expectation, which was that lieutenants independently  
6 investigate the circumstances involving misconduct or  
7 attendance issues, which may warrant those lower levels of  
8 discipline, and take action to issue that discipline on their  
9 own without being prompted by a captain or somebody above a  
10 captain to do so.

11 MR. SELEMAN: Move for the admission of Employer  
12 Exhibit 12.

13 HEARING OFFICER CORA: Any objections?

14 Mr. MOORE: If I may voir dire the witness about this.

15 **VOIR DIRE EXAMINATION**

16 Q. BY MR. MOORE: Looking at this document, about a third  
17 of the way down from the front page, there seems to be some  
18 intermittent line that cuts across as if there was some sort  
19 of cut and paste done with this. Can you explain that line?  
20 You see what I'm referring to?

21 A. I see what you're referring to. Probably just something  
22 to do with the way that this was printed.

23 Mr. MOORE: Could we go off the record for a moment?

24 HEARING OFFICER CORA: Off the record.

25 (Off the record from 12:24 p.m. to 12:24 p.m.)

1 Q. BY MR. MOORE: So if I understand correctly, you  
2 originally forwarded something what, on June 27th, and  
3 then -- or I'm just trying to get the dates straight, the  
4 July 1st versus the June 27th.

5 A. Now, July 1st was the date that I sent this email out to  
6 the individuals that are listed there in the "To" line, all  
7 the lieutenants. The date above that, in that first header,  
8 where it says, June -- 27 June 2017, all my emails I copy to  
9 an email account just for archival purposes because the  
10 client's email server deletes things after a certain period  
11 of time. So that was the date at which I forwarded it from  
12 my email back to my official work email so that I would have  
13 access to it.

14 Q. Okay. And as I understand the -- you had attached and  
15 you referenced this in what you transmitted, you attached  
16 Mr. Mareth's email dated June 13, 2016?

17 A. Yes. That's correct.

18 MR. MOORE: Okay. No objection.

19 HEARING OFFICER CORA: Hearing no objections, Employer's  
20 Exhibit 12 is admitted into evidence.

21 **(Employer's Exhibit 12 received in evidence.)**

22 HEARING OFFICER CORA: I just have a quick question.  
23 So -- because I'm just a little unclear. So the email to all  
24 the lieutenants is dated July 1st, and it contains the body  
25 with your signature?

1 THE WITNESS: Correct.

2 HEARING OFFICER CORA: Which encompasses the entire  
3 first page -- well, aside from the forwarding on top.

4 THE WITNESS: Right.

5 HEARING OFFICER CORA: Then the next page is an  
6 attachment to the email you sent the lieutenants? Or was it  
7 below, so it was forwarded?

8 THE WITNESS: It was below, so yeah. If you're looking  
9 at it on one sheet, it would have been the next thing down.

10 HEARING OFFICER CORA: Okay. And then the last page is  
11 just a continuation of?

12 THE WITNESS: Of the forwarded email. That's correct.

13 HEARING OFFICER CORA: Okay.

14 THE WITNESS: That's the, that's a continuation of  
15 Mr. Mareth's email.

16 HEARING OFFICER CORA: Okay. So Mr. Mareth's email is  
17 the second and third page, which is found below the first  
18 email?

19 THE WITNESS: Yes. That's correct.

20 HEARING OFFICER CORA: All right. Thanks.

21 THE WITNESS: Sure.

22 **DIRECT EXAMINATION (cont.)**

23 Q. BY MR. SELEMAN: Did you take any actions to emphasize  
24 the message in your July 1, 2016 email?

25 A. I did. In addition to sending out the email, I

1 continued to review disciplinary actions. The captains had  
2 been instructed to provide me with copies of those  
3 disciplinary actions after they'd been issued. So I would  
4 review those things as they came across my desk to see who  
5 was actually doing the issuing.

6 I would reinforce with the captains when I started  
7 seeing things that were issued by captains versus lieutenants  
8 that should have been issued lieutenants that, again, the  
9 lieutenants were the ones that were supposed to be issuing  
10 the discipline for lower-level offenses.

11 Q. When you say "issuing," are you talking about sort of  
12 the ministerial task of writing it down and handing it to the  
13 security officer?

14 A. No. The intent there would be that the lieutenant is  
15 actually investigating the circumstances surrounding the  
16 attendance issue or the misconduct, and either issuing the  
17 discipline himself, meaning reviewing the policy, reviewing  
18 the individual's past history, and deciding what level  
19 discipline is warranted, and then taking the action  
20 independently without getting permission from a superior to  
21 issue that discipline for those lower level offenses.

22 If it's something that warrants a suspension or a  
23 termination, certainly they would make a recommendation to  
24 the captain who would actually issue the suspension in  
25 accordance with our policy.

1 Q. Do you recall which captains you spoke to about that  
2 subject?

3 A. I know that I gave feedback to Captain Charles Feldman.  
4 He was the Alpha Team captain at the time. I've given  
5 feedback to Captain Lee Evans as well about that. He's the  
6 Bravo Team captain.

7 Q. Do you recall when those conversations happened with  
8 Captain Feldman?

9 A. With Captain Feldman, it would have been an email  
10 conversation. I want to say it was March of 2016.

11 Q. And I'm sorry, did you say Captain Evans?

12 A. Yeah. With Captain Evans, he and I have had numerous  
13 conversations about that, verbally and via email. I can't  
14 recall the date of the email.

15 Q. About what time frame were those conversations with  
16 Captain Evans?

17 A. It would be difficult to pin down exactly. It would  
18 have been in 2016. I'm sorry I can't narrow it down more for  
19 you.

20 Q. Have you taken any action relative to any captains  
21 regarding how their lieutenants handle discipline?

22 A. Yes. Captain Evans is actually on a performance  
23 improvement plan currently for various failures of his  
24 leadership ability, one of those things specifically being  
25 that he was issuing discipline that his lieutenants should

1 have been issuing, and he was failing to force them or  
2 require them to investigate and independently issue that  
3 discipline for lower level offenses.

4 **(Employer's Exhibit 13 marked for identification.)**

5 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
6 Employer Exhibit 13. Do you recognize this document?

7 A. Yes. This is the memo that outlines the performance  
8 improvement plan for Captain Evans that I implemented on July  
9 20th, 2017.

10 Q. Directing your attention to page 2, Performance  
11 Improvement Objective 2, Section D, what are you talking  
12 about there?

13 A. So this was one of the failures that I had noted  
14 previously, where I saw a lot of disciplinary actions that he  
15 was issuing that should have been investigated and  
16 independently issued by his lieutenants. So this particular  
17 objective pertained to the fact that his lieutenants were  
18 supposed to be independently investigating discipline for  
19 lower level issues.

20 If it's something that a lieutenant does not directly  
21 observe, like an attendance issue, then in that instance, the  
22 captain could notify the lieutenant of the attendance issue,  
23 but the lieutenant at that point had the responsibility to  
24 investigate the officer's personnel history to make sure --  
25 to figure out when the last time he might have had this kind



1 of offense was, to review the policy and then issue the  
2 discipline if it's within that oral or written level.

3 Q. When was this performance improvement plan issued?

4 A. July of 2017.

5 Q. Is there a time frame or a deadline for the actions you  
6 expect Captain Evans to take in response to this?

7 A. Yes. It's a 90-day performance improvement plan, so 90  
8 days from the date of issuance, which was July 20th, 2017.

9 Q. Do you know what action you will take if Captain Evans  
10 does not comply with that instruction that you outlined in  
11 Performance Improvement Objective 2, Section D?

12 A. Yes. He'll be demoted or terminated.

13 MR. SELEMAN: Move for the admission of Employer  
14 Exhibit 13.

15 MR. MOORE: No objection.

16 HEARING OFFICER CORA: Hearing no objections, Employer's  
17 Exhibit 13 is admitted into evidence.

18 **(Employer's Exhibit 13 received in evidence.)**

19 **(Employer's Exhibit 14 marked for identification.)**

20 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
21 Employer Exhibit 14. Please flip through these pages and let  
22 us know, are you familiar with these documents?

23 A. Yes. These are various disciplinary actions issued to  
24 security officers from January 2016 to the present date.

25 Q. Issued by what classification of people?

1 A. These appear to all be issued by lieutenants.

2 Q. Where did these documents come from?

3 A. Yeah, I'm sorry. Some of these were issued by captains.  
4 These all came from the personnel files, which is where we  
5 maintain disciplinary actions. So I retrieved these from the  
6 personnel files together with two of my administrative  
7 assistants.

8 **(Employer's Exhibit 15 marked for identification.)**

9 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
10 Employer Exhibit 15. Do you recognize this document?

11 A. Yes. This is a roster that I put together that lists  
12 all of the disciplinary actions, who they were issued to and  
13 who they were issued by, for actions that were issued to  
14 officers by lieutenants, 2016 to present.

15 Q. Did you put this document together?

16 A. Yes, I did, based on my review of the disciplinary  
17 actions that we pulled from the personnel files.

18 Q. And is Employer Exhibit 15 an outline of everything in  
19 Employer Exhibit 14?

20 A. Yes, it is.

21 Q. Is this list limited to lieutenants? I'm sorry, at  
22 least limited to people that were lieutenants at the time at  
23 the date of issuance?

24 A. Yes, that's correct. These were all lieutenants at the  
25 time that discipline was issued.

1 Q. Does that mean that all of the disciplines in Employer  
2 Exhibit 14 were disciplines issued by lieutenants?

3 A. Yes. That's correct.

4 Q. Were those disciplinary actions all issued to security  
5 officers?

6 A. Yes, or security officers at the time. Yes, that's  
7 correct.

8 Q. For the purposes of Employer Exhibit 15, how did you  
9 identify which lieutenant issued which discipline?

10 A. The current version of the disciplinary form has a  
11 section where the issuing supervisor would print their name  
12 and then sign their name. So, for those, it was fairly easy  
13 to identify. For the previous version of the form, where  
14 there was only a supervisor, we simply compared the  
15 signatures to the signatures on current forms that we knew  
16 who they belonged to.

17 MR. SELEMAN: Move for the admission of Employer  
18 Exhibits 14 and 15.

19 MR. MOORE: If I may voir dire the witness about these,  
20 both exhibits. May I proceed with voir dire?

21 HEARING OFFICER CORA: Sure, sure.

22 MR. MOORE: Thank you.

23 HEARING OFFICER CORA: Sorry.

24 VOIR DIRE EXAMINATION

25 Q. BY MR. MOORE: Are you representing that Exhibit 15 is a

1 summary of all of the disciplinary action notices that are  
2 contained in 14?

3 A. It's a list of the individuals -- it's not a summary of  
4 disciplinary actions. It's a list of the individuals to whom  
5 the discipline was issued, when it was issued, and who it was  
6 issued by.

7 Q. So if I see a name on Exhibit 15, there should be a  
8 document in 14 that matches that?

9 A. Yes. That's correct.

10 Q. And is the reverse true? If I have a disciplinary  
11 action form for someone, it should appear on Exhibit 15?

12 A. Yes. That's correct.

13 Q. Well, the first page of Exhibit 14 is someone named  
14 Andre Aguirre. I don't see that name on Exhibit 15. Did you  
15 have an explanation for that?

16 A. He's an employee who was terminated. There may have  
17 been -- the individuals that no longer work for us may not be  
18 listed on this. I think that's the most likely explanation.

19 Q. So Exhibit 15 is not a list of all the people who are  
20 involved in Exhibit 14, correct?

21 A. It's a list of the majority of the documents that are  
22 contained in Exhibit 14.

23 Q. And is there some reason why you left out some names?

24 A. Like I said, the officer is no longer employed by us,  
25 so --

1 Q. And is there some reason why you would leave out an  
2 officer just because they no longer are employed?

3 A. I don't have a good answer for you there.

4 MR. SELEMAN: The Employer's prepared to withdraw  
5 Employer Exhibit 15. That's really just offered as a tool to  
6 help everybody try to identify, locate things in 14. But  
7 we're happy to withdraw it as an exhibit.

8 MR. MOORE: Well, I found at least one other name that's  
9 in 14 that isn't on 15, and I obviously haven't had an  
10 opportunity to look through this entire document.

11 HEARING OFFICER CORA: Can we go off the record a sec?  
12 (Off the record from 12:36 p.m. to 12:38 p.m.)

13 MR. MOORE: Okay, if I can continue my voir dire so I  
14 understand?

15 HEARING OFFICER CORA: Of course.

16 Q. BY MR. MOORE: You're representing that the collection  
17 of documents, which is proposed Exhibit, Employer Exhibit 14,  
18 are disciplinary actions that were either signed by a  
19 lieutenant or a captain, correct?

20 A. Yes, that's correct.

21 Q. But these documents do not demonstrate whether that  
22 captain or that lieutenant made that decision without  
23 consulting with higher-ups, as in a lieutenant to a captain  
24 or a captain to, perhaps, you as a project manager, do they?

25 A. No, the document itself does not represent that.

1 Q. All these are, are demonstrations that a lieutenant  
2 signed a document which was apparently given to an employee,  
3 correct?

4 A. Yes.

5 MR. MOORE: Well, subject to the opportunity to look  
6 through this stack, I have no objection. But I would reserve  
7 till I have an opportunity to actually look at all these  
8 documents.

9 HEARING OFFICER CORA: Is this just for 14 or 15?

10 MR. MOORE: Well, for 14, I mean, if the Employer wants  
11 to withdraw 15, that's up to them. I've found at least two  
12 discrepancies, and I appreciate counsel's explanation for why  
13 it may be slightly inaccurate.

14 MR. SELEMAN: And we're prepared -- we will withdraw 15.  
15 I mean, obviously, people can hold on to it to the, you know,  
16 to the extent that it gives you any assistance in tracking  
17 something down.

18 HEARING OFFICER CORA: Just to be clear, if it's  
19 withdrawn, it will not be part of the record.

20 MR. MOORE: That's fine.

21 HEARING OFFICER CORA: I know you just said that we all  
22 keep copies, but they won't --

23 MR. SELEMAN: I mean, in light of that, I mean, I would  
24 like to -- I mean, whatever mistakes are in the summary  
25 notwithstanding, I still think it's a valuable aid. Again,

1 like you mentioned, to the extent that many of these  
2 signatures of supervisors aren't -- most of us wouldn't know  
3 who that is, I think the summary is a helpful cross-reference  
4 for the record. So we would like to continue to offer it for  
5 what it's worth.

6 MR. MOORE: Well, my position -- I don't have an  
7 objection to having it in the record, but I want the -- I've  
8 identified at least two people that are found in Exhibit 14,  
9 and I only got to the B's, that are not in Exhibit 15. And  
10 so with the understanding, and I think counsel's acknowledged  
11 for reasons he's explained that Exhibit 15 may have some  
12 omissions, I'm not going to object to the representation that  
13 it summarizes to some extent -- I'll use it as a worksheet,  
14 not as a final compilation.

15 HEARING OFFICER CORA: So you're moving for both, right?

16 MR. SELEMAN: Yes.

17 HEARING OFFICER CORA: Okay. So --

18 MR. SELEMAN: I apologize for the confusion.

19 HEARING OFFICER CORA: Exhibits 14 and 15 are admitted  
20 into evidence, and the reader of the record will give it the  
21 weight it deserves.

22 **(Employer's Exhibits 14 and 15 received in evidence.)**

23 HEARING OFFICER CORA: I do have one quick question  
24 before you move from the questions regarding Exhibit 14.  
25 Just to take the first page as an example, which is Andreas

1 Aguirre, the disciplinary corrective action. It's dated on  
2 top 12/30/16, signed at the bottom January 1st, 2017. Can  
3 you identify the signature that's next to "Signature of  
4 supervisor" at the bottom of the page?

5 MR. SELEMAN: On this one, I would have to compare it to  
6 other signatures. I can't tell you off the top of my head.

7 HEARING OFFICER CORA: Okay. You did mention that there  
8 was some captain's disciplinary notices in this package?

9 MR. SELEMAN: I did see a couple in there, yes.

10 HEARING OFFICER CORA: Can you identify which ones were  
11 for the captain? It doesn't have to be all, but which one  
12 that was signed by --

13 MR. SELEMAN: Well, actually, I'm going to now take him  
14 through the entire stack --

15 HEARING OFFICER CORA: Okay. Then you can --

16 MR. SELEMAN: -- and identify which ones were not people  
17 who were lieutenants at the time they were --

18 HEARING OFFICER CORA: Right, I think that would be the  
19 quickest way. Go ahead.

20 DIRECT EXAMINATION (cont.)

21 Q. BY MR. SELEMAN: Okay. All right. So, Mr. Scott, if  
22 you'd walk through this stack and, where you can, please  
23 identify whose signature, which supervisor signed the  
24 document and what their position was at the time?

25 A. Okay. So the first one for Andreas Aguirre, I can't



1 read that signature. The second one for Victor Archilla,  
2 that would be Nikki Napier that signed it.

3 MR. MOORE: I'm sorry, I don't see -- this is Victor  
4 Archilla? I don't see a Napier signature anywhere. What am  
5 I missing? Are we looking at the same document?

6 MR. SELEMAN: It's the squiggle down underneath the  
7 employee's signature.

8 MR. MOORE: Oh, that's a separate signature from the  
9 squiggle above it. Okay. Thank you.

10 Q. BY MR. SELEMAN: What position was Napier at that time?

11 A. She was, and is, a lieutenant.

12 Q. How about the next page?

13 A. The next one, that's Jimmy Aviles. He is a -- at the  
14 time of this issuance, he would have been a lieutenant, but  
15 he was acting as a backup captain.

16 Q. How about the next one?

17 A. The next one, that's Brian Mekdeci. He's a captain, was  
18 a captain -- or I'm sorry, a lieutenant at the time, still  
19 is.

20 Q. And the next one?

21 A. The same thing. For William Barfus, that was also Brian  
22 Mekdeci, a lieutenant.

23 Q. How about the next one?

24 A. And the next one for William Barfus, that was Brian  
25 Mekdeci, a lieutenant as well.

1 Q. And the next one?

2 A. The next one for Barfus, that was Steve Bonnell. He at  
3 the time was a lieutenant.

4 Q. The next one?

5 A. For Pablo Beyra, that was signed by Michael Stewart.  
6 He's a lieutenant.

7 HEARING OFFICER CORA: This is dated 3/9/16?

8 THE WITNESS: Yes, that's correct.

9 HEARING OFFICER CORA: At the top?

10 THE WITNESS: Um-hum. And the bottom, yes.

11 MR. MOORE: I'm sorry. I've got more Barfuses than I  
12 think you just reviewed. Let's see here, 1, 2, 3, 4, 5  
13 William Barfuses?

14 MR. SELEMAN: Yes.

15 MR. MOORE: Okay.

16 MR. SELEMAN: And then four on the summary.

17 MR. MOORE: And four on the summary. And the second --

18 HEARING OFFICER CORA: Well, I have four William Barfus  
19 and one Gloria Barfus.

20 MR. MOORE: Ah. Okay, yeah.

21 THE WITNESS: Yes.

22 MR. MOORE: That's the one that's missing on Exhibit 15?

23 HEARING OFFICER CORA: It seems that Employer's Exhibit  
24 15 does not list any for Gloria.

25 MR. MOORE: Okay, that's --

1 THE WITNESS: That's correct. Because Gloria was a  
2 lieutenant at the time, so she would not be on that summary.

3 HEARING OFFICER CORA: So just to be clear, Gloria, the  
4 person being disciplined, was a lieutenant?

5 THE WITNESS: Correct. And Jimmy Aviles is a  
6 lieutenant, but he's a backup captain. So on the day that he  
7 issued this, he would have been fulfilling the role of  
8 captain.

9 HEARING OFFICER CORA: Okay.

10 MR. SELEMAN: Perhaps I could suggest the following.  
11 Can we go off the record for a moment?

12 HEARING OFFICER CORA: Off the record.

13 (Off the record from 12:45 p.m. to 12:46 p.m.)

14 HEARING OFFICER CORA: Back on the record.

15 During off-the-record discussions, the parties have  
16 agreed that the Employer's Exhibit 14 and 15 will remain  
17 admitted into evidence but with the condition that before the  
18 conclusion of this hearing the Employer will update  
19 Employer's Exhibit 14 and maybe separate them as Employer's  
20 Exhibit 14(a) and then 14(b) to reflect the distinctions  
21 between those disciplines issued by a captain and those  
22 issued by a lieutenant.

23 Q. BY MR. SELEMAN: Do lieutenants have to consult with  
24 your superiors before issuing oral or written warnings?

25 A. No, they don't.

1 Q. What is the effect of an oral or written warning issued  
2 by a lieutenant?

3 A. Under the progressive disciplinary policy, the oral and  
4 the written would form the foundations for progressive  
5 discipline. So a lieutenant may issue an oral or a written.  
6 If it's a similar offense and there's a third offense, that  
7 may result in a suspension or eventually a termination, which  
8 would be, in the case of suspension, issued by a captain.  
9 The fact that we're issuing a suspension would be based upon  
10 the fact that we already issued an oral and a written when  
11 we're talking about offenses of the same nature within a  
12 certain time frame.

13 Q. Is that sort of progressive system true for attendance  
14 issues like tardiness?

15 A. Yes, it is.

16 Q. Is there a policy that governs attendance issues?

17 A. Yes, there's a specific policy, 1307, that covers  
18 attendance.

19 **(Employer's Exhibit 16 marked for identification.)**

20 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
21 Employer's Exhibit 16. Are you familiar with this document?

22 A. Yes. This is the G4S Regulated Security Solutions  
23 policy governing attendance.

24 MR. SELEMAN: Move for admission of Employer Exhibit 16.

25 MR. MOORE: If I can have a moment?

1 HEARING OFFICER CORA: Okay.

2 (Pause.)

3 MR. MOORE: No objection.

4 HEARING OFFICER CORA: Hearing no objection, Employer's  
5 Exhibit 16 is admitted into evidence.

6 (Employer's Exhibit 16 received in evidence.)

7 Q. BY MR. SELEMAN: Does a lieutenant just apply the  
8 attendance policy to an attendance issue, come up with a  
9 dictated result, and then issue the appropriate discipline?

10 A. No, there's more to it than that. The lieutenant would  
11 look at things besides the policy. The policy provides the  
12 guidelines based on the type of attendance issue, but the  
13 lieutenant would give consideration to any other mitigating  
14 circumstances. If we're talking about an attendance issue,  
15 maybe there were things outside of the employee's or the  
16 officer's control, such as sick children, car trouble, and so  
17 on. The lieutenant would consider those things.

18 The lieutenant would also look at the individual's past  
19 history and look at his personnel summary to see had he been  
20 late in the past or had unexcused absences, so on and so  
21 forth, and take all of those things into account when  
22 determining what level of discipline is appropriate for a  
23 particular offense.

24 Q. Could a lieutenant decide to consider it a coaching  
25 rather than a disciplinary event?

1 A. Lieutenants have certainly shown discretion in the past  
2 for those lower-level things, like parties. If somebody is  
3 30 seconds late, a lieutenant may choose not to pursue  
4 discipline for something like that.

5 Q. When you reviewed disciplinary actions issued by  
6 lieutenants to officers from 2016 to the present, were all  
7 those discipline actions for attendance issues?

8 A. No, some were for attendance issues, and some were for  
9 job performance issues.

10 **(Employer's Exhibit 17 marked for identification.)**

11 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
12 Employer's Exhibit 17. Are you familiar with these  
13 documents?

14 A. Yes. These are three different disciplinary actions  
15 that were issued by lieutenants to security officers.

16 Q. Looking at the first page, a discipline issued to Jaspen  
17 Bishop, February 19, 2016, would you walk us through this  
18 document and just outline it for us?

19 A. Sure. This was a disciplinary action, an oral warning  
20 that was issued to the security officer for refusing to  
21 complete a particular task and for using profanity in the  
22 presence of another officer when asked to perform that task.  
23 The lieutenant that issued this made the determination based  
24 on his experience with the officer and his knowledge of that  
25 officer's past history and his knowledge of the disciplinary

1 policy to issue an oral warning for this particular offense.

2 Q. What part of the progressive disciplinary policy did  
3 this lieutenant cite to in the notice?

4 A. This was a Level III infraction, was what he cited.

5 Q. Based on what you read there of the underlying incident,  
6 was the only appropriate result here a Level III disciplinary  
7 action?

8 A. No. This could have gone in different directions. The  
9 lieutenant could have made a determination just to go with a  
10 coaching, a verbal coaching or a documented coaching if he  
11 felt that would be effective. The lieutenant could have gone  
12 higher up in the disciplinary scale as far as going to a  
13 written warning by considering this a Level II offense if he  
14 felt that that was warranted based on the circumstances. So  
15 he made a choice. There were other right choices he could  
16 have made.

17 Q. All right. How about the second page, the notice issued  
18 to Antoine Geffrard, September 20, 2016, would you just walk  
19 us generally through that and outline it for us?

20 A. Yeah, this is another issue that a lieutenant issued an  
21 oral warning to an officer for a perception of -- or for, I'm  
22 sorry, for violating a client policy, which restricts the use  
23 of cell phones in a particular area.

24 This being a policy violation, the lieutenant certainly  
25 could have gone for a higher level of discipline based on the

1 significance of that policy violation or that procedure  
2 violation. Again, the lieutenant could have also exercised  
3 discretion and gone with a verbal coaching or a documented  
4 coaching based on that officer's history if she believed that  
5 that would have been effective.

6 Q. Is there a specific reference in here to which level  
7 offense this was considered to be?

8 A. No, just reference the client procedure. It does not  
9 reference a specific level of offense.

10 Q. And I'm sorry if you've answered this already, but whose  
11 "Signature of supervisor" is on this one?

12 A. That's Gloria Barfus. She's a lieutenant.

13 Q. And back to the first page for a moment.

14 A. The first page, that is John Macrina. He is currently a  
15 lieutenant and was at the time as well.

16 Q. And then directing your attention to the third page, the  
17 notice issued to Gary Clayton, February 13, 2017, who signed  
18 that one as supervisor?

19 A. Michael Stewart, a lieutenant.

20 Q. A lieutenant at that time?

21 A. At that time as well.

22 Q. And would you please outline this one for us?

23 A. This was another -- this was an issue where an officer  
24 was observed in a posture that could have been perceived as  
25 being inattentive, which is a significant issue in our



1 industry. In this case, the lieutenant chose to issue an  
2 oral warning.

3 This was again something where the lieutenant had the  
4 ability to use discretion and verbally coach or use a  
5 documented coaching if that would have been effective for  
6 that officer based on that officer's history. It also could  
7 have resulted in a written warning. With it being an  
8 inattentive issue, it could have gone even more significant  
9 than that based on the circumstances.

10 Q. Does this notice cite to a particular level of the  
11 progressive disciplinary policy that's being violated?

12 A. This one does not specifically refer to a level, no.

13 MR. SELEMAN: Move for the admission of Employer's  
14 Exhibit 17.

15 HEARING OFFICER CORA: Any objections?

16 MR. MOORE: If I may voir dire the witness?

17 HEARING OFFICER CORA: You may.

18 **VOIR DIRE EXAMINATION**

19 Q. BY MR. MOORE: You've identified that all three of these  
20 disciplinary actions contain the signature of a lieutenant?

21 A. Yes, I have.

22 Q. You don't know whether that lieutenant consulted with or  
23 got approval of someone higher up in the chain of command  
24 before issuing this, do you?

25 A. No, I don't know that, but my expectation would be that

1 they would comply with the expectations that we communicated  
2 previously on their independent issuance of the discipline.

3 Q. So the answer is no, you don't know whether there was  
4 any consultation before the lieutenant signed this document  
5 or these documents?

6 A. No. No, I don't know that.

7 MR. MOORE: No objection.

8 HEARING OFFICER CORA: Hearing no objection, Employer's  
9 Exhibit 17 is admitted into evidence.

10 **(Employer's Exhibit 17 received in evidence.)**

11 HEARING OFFICER CORA: Did you move for the admission of  
12 16?

13 MR. SELEMAN: I believe so, but I'm happy to do it again  
14 in case I didn't. That was the attendance policy.

15 HEARING OFFICER CORA: Right.

16 MR. SELEMAN: Move for admission. That's the one that I  
17 believe Mr. Moore took a moment to look at just because I  
18 didn't ask any questions about it.

19 HEARING OFFICER CORA: Okay. Do you have objections to  
20 the admission of 16?

21 MR. MOORE: No.

22 HEARING OFFICER CORA: Okay. It's admitted into  
23 evidence.

24 MR. SELEMAN: And 17?

25 HEARING OFFICER CORA: And 17.

1 MR. SELEMAN: Okay.

2 (Employer's Exhibit 18 marked for identification.)

3 DIRECT EXAMINATION (cont.)

4 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
5 Employer's Exhibit 18. Do you recognize these documents?

6 A. Yes. These are various documented coachings that were  
7 issued to security officers by lieutenants.

8 Q. Looking at the first page, the coaching issued to Victor  
9 Lopez, Jr., April 22, 2017, do you know whose signature is on  
10 there for supervisor?

11 A. Yeah, the supervisor there is Eduardo Boza. He was a  
12 lieutenant at the time and still is.

13 Q. And when you look at the underlying conduct by the  
14 security officer in question, was a coaching the only  
15 appropriate outcome?

16 A. No. This was another procedure violation, which  
17 certainly could have resulted in discipline at a couple of  
18 different levels, at either the oral or written levels. But  
19 this was an option. Based on this officer's history, the  
20 lieutenant made a decision to go with a documented coaching  
21 versus a disciplinary action.

22 Q. How about the second page, a coaching issued to Ruben  
23 Rodriguez dated October 16, 2016, do you know who signed as  
24 the supervisor on that one?

25 A. Yes. That would be -- that appears to be Steve

1 Bonnell's signature. I believe he was a captain at the time.

2 Q. Would you please flip to the third page, a coaching  
3 issued to Anyea Coleman-Vargas, January 24, 2017? Do you  
4 recognize that page?

5 A. Yep. That was issued by Hamraj Ramkissoon. He was and  
6 is a lieutenant.

7 Q. And based on the security officer conduct outlined there  
8 in the coaching, was a coaching the only appropriate decision  
9 to make on that?

10 A. No. Again, this would be a policy or a procedure  
11 violation for the station, so this could have resulted in  
12 disciplinary action had that lieutenant felt it was  
13 warranted. But again, based on that officer's history, a  
14 coaching was determined apparently to be appropriate based on  
15 the issue.

16 Q. And how about the last page, the coaching issued to  
17 Henry Marquez, April 6, 2017, who signed that one as  
18 supervisor? If you recognize it.

19 A. I can't recognize that one off the top of my head.

20 MR. SELEMAN: We're happy to remove the second and  
21 fourth page, and then we'd move for the admission of Employer  
22 Exhibit 18.

23 MR. MOORE: Again may I voir dire the witness?

24 HEARING OFFICER CORA: Sure.

25 VOIR DIRE EXAMINATION

1 Q. BY MR. MOORE: As with the other documents, they contain  
2 the signature of people you've been able, at least in some --  
3 identify as lieutenants, you don't know whether that  
4 lieutenant consulted or got permission or approval from a  
5 captain or someone else in management before issuing this, do  
6 you?

7 A. No, I don't.

8 MR. MOORE: No objection. Which ones are we removing?

9 MR. SELEMAN: 2 and 4. So the exhibit consists of the  
10 first page, the coaching issued to Victor Lopez, Jr., April  
11 22, 2017 and the coaching issued to Coleman-Vargas on January  
12 24, 2017.

13 HEARING OFFICER CORA: Hearing no objection, Employer's  
14 Exhibit 18, which includes the employee documented coaching  
15 for Victor Lopez, Jr. dated 4/22 and the employee documented  
16 coaching for Henry --

17 Is it Henry Marquez, the fourth page -- we're doing the  
18 first and the --

19 MR. SELEMAN: First and third.

20 HEARING OFFICER CORA: I'm sorry.

21 MR. SELEMAN: And Vargas, Coleman-Vargas.

22 HEARING OFFICER CORA: So the employee documented  
23 coaching for Victor Lopez, Jr. dated 4/22/17 and the employee  
24 documented coaching for Anyea Coleman-Vargas dated 1/24/2017  
25 are admitted into evidence.

1 (Employer's Exhibit 18, pages 1 and 3, received in evidence.)

2 (Employer's Exhibit 18, pages 2 and 4, withdrawn.)

3 DIRECT EXAMINATION (cont.)

4 Q. BY MR. SELEMAN: Do lieutenants have to consult with a  
5 captain before issuing a coaching?

6 A. No.

7 Q. In your experience as project manager, do you have  
8 reason to know whether lieutenants regularly consult with  
9 captains before issuing a coaching?

10 A. I'm not present for the issuance of coachings of  
11 disciplinary actions generally, so I would not have reason to  
12 know that they would.

13 Q. When you were a lieutenant, did you consult with your  
14 captain before issuing coachings?

15 A. No, I issued them on my own.

16 Q. Do you have any reason to believe that is something that  
17 has changed about how lieutenants issue coachings since your  
18 time as a lieutenant?

19 MR. MOORE: I object. That question has been asked and  
20 answered.

21 MR. SELEMAN: Well, in voir dire, opposing counsel  
22 really went beyond the voir dire and really asked questions  
23 that really went to --

24 HEARING OFFICER CORA: I'll allow the question. You may  
25 answer.

1 Q. BY MR. SELEMAN: Do you have any reason to believe that  
2 the lieutenant's role in issuing a coaching and checking with  
3 a captain before doing so has changed since you were a  
4 lieutenant?

5 A. No.

6 Q. Do captains have a role in disciplining lieutenants?

7 A. Yes, captains are the individuals who would discipline  
8 lieutenants as the lieutenants are direct reports of the  
9 captain.

10 Q. To your knowledge, has anything changed about their role  
11 in that regard in the last couple years?

12 A. No, captains have always had responsibility for issuance  
13 of discipline to lieutenants.

14 **(Employer's Exhibit 19 marked for identification.)**

15 Q. BY MR. SELEMAN: Let me see if we do better with this  
16 one. I'm showing you what's been marked as Employer's  
17 Exhibit 19. Do you recognize these documents?

18 A. Yes. These are disciplinary actions issued to  
19 lieutenants by captains from 2016 to present.

20 **(Employer's Exhibit 20 marked for identification.)**

21 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
22 Employer's Exhibit 20. Do you recognize this page?

23 A. Yes. This is a list of the documents contained in  
24 Exhibit 19.

25 Q. And when you flip through Employer Exhibit 19, do you

1 believe that the summary is correct and that all of these  
2 disciplines were issued by somebody who was a captain at the  
3 time they issued it to a lieutenant?

4 A. Yes, these were all issued by captains at the time to  
5 lieutenants.

6 Q. Is the process for a captain deciding what level of  
7 disciplinary action to issue a lieutenant essentially the  
8 same as the process that you've testified to about that a  
9 lieutenant goes through in deciding about security officers?

10 A. Yes, it is.

11 Q. Does a captain have similar ability to decide to issue a  
12 coaching to a lieutenant instead of a disciplinary action?

13 A. Yes.

14 Q. Do captains have to consult with anybody else before  
15 issuing discipline to lieutenants?

16 A. No, they don't.

17 Q. Do captains have to consult with any superior before  
18 issuing discipline to a security officer?

19 A. No, they don't.

20 Q. Regarding attendance issues, does a captain just apply  
21 the policy to an attendance issue for a lieutenant, come up  
22 with a dictated result, and then issue the appropriate  
23 discipline?

24 A. No. As with the lieutenants, the captain would take  
25 into account various circumstances, the individual's past



1 history, any other mitigating circumstances that contributed  
2 to the attendance issue, and take all those factors into  
3 determination when issuing discipline.

4 MR. SELEMAN: The Employer moves for the admission of  
5 Employer Exhibit 19 and 20.

6 MR. MOORE: And may I voir dire the witness?

7 HEARING OFFICER CORA: You may.

8 VOIR DIRE EXAMINATION

9 Q. BY MR. MOORE: You've testified that you don't believe  
10 captains have to check with, I'll call them higher-ups,  
11 before issuing discipline, but you don't know in any of the  
12 instances reflected in Employer Exhibit 19 whether in fact  
13 the captains involved checked with some other person before  
14 issuing it, do you?

15 A. No.

16 Q. And by that I mean a management person.

17 A. No, I don't.

18 MR. MOORE: Okay, no other questions and no objection.

19 HEARING OFFICER CORA: Hearing no objection, Employer's  
20 Exhibit 20 is received and admitted into evidence.

21 (Employer's Exhibits 19 and 20 received in evidence.)

22 DIRECT EXAMINATION (cont.)

23 Q. BY MR. SELEMAN: Are you involved in the process of  
24 hiring new security officers at Turkey Point?

25 A. Yes, I am.

1 Q. Has a lieutenant ever been involved in that process?

2 A. Yes. I involved Lieutenant Eduardo Boza in the new hire  
3 process for a class that we hired in 2017.

4 Q. Did Lieutenant Boza get to provide any input as part of  
5 that process?

6 A. Yes. After each applicant was interviewed, the  
7 interview team would have a brief debriefing session where we  
8 would discuss the responses the applicant had given to the  
9 interview and then discuss how we felt that individual rated  
10 as far as a viable candidate.

11 Q. Do you recall approximately how many candidates were  
12 interviewed as part of the process that Lieutenant Boza was  
13 involved with?

14 A. Between 10 and 15.

15 Q. Did Lieutenant Boza ever have a different opinion than  
16 you regarding any of the candidates?

17 A. Yes. Yes. We agreed on many of the candidates. There  
18 was one candidate in particular that I felt would have made a  
19 quality applicant. Lieutenant Boza did not, and he swayed me  
20 in that direction based on his evaluation of the candidate's  
21 responses during the interview process.

22 Q. What was the result for that candidate based on  
23 Lieutenant Boza's swaying your opinion on that?

24 A. We did not hire him.

25 Q. Do you believe you would have offered that person a

1 position but for Lieutenant Boza's input?

2 A. Yes.

3 Q. Do you have a plan to have Lieutenant Boza involved the  
4 next time you do a round of interviews for new security  
5 officers?

6 A. I probably would not involve him specifically, but I  
7 would involve other lieutenants as a development opportunity  
8 for them and to get a broad perspective about the individuals  
9 that we're hiring.

10 Q. Who does a security officer call if he or she can't make  
11 it to work on time for a shift?

12 A. The officer would notify either the shift supervisor,  
13 the captain that's on duty, or the lieutenant, the alarm  
14 station operator that's on duty at the time.

15 Q. Who decides if the officer should be excused for being  
16 late?

17 A. For lates, generally it would be a member of management,  
18 so myself or the operations coordinator, that would excuse  
19 that based on a recommendation by a captain.

20 **(Employer's Exhibit 21 marked for identification.)**

21 Q. BY MR. SELEMAN: I'm showing you what's been marked as  
22 Employer Exhibit 21. Are you familiar with these documents?

23 A. Yes. These are email communications between myself and  
24 Captain Kevin Reyes pertaining to various attendance issues  
25 where he made a recommendation to excuse or not to excuse

1 various issues.

2 Q. Could you please walk us through this first page of the  
3 emails regarding Shinhoster?

4 A. Sure. On the first page, Captain Reyes notified me that  
5 the officer, Shinhoster, was late for work on a particular  
6 day. He was purchasing a vehicle and was delayed in  
7 reporting to work. Captain Reyes asked me my perspective on  
8 excusing the late, and his recommendation was he says no, we  
9 shouldn't excuse the late; he should have had better  
10 planning. And I concurred with that.

11 Q. How about the second page regarding Mike Byrd?

12 A. The second late, for Mike Byrd, this was an issue that  
13 was outside of that officer's control where he had a dead  
14 battery. In this case, Captain Reyes recommended excusing  
15 it, and I concurred.

16 Q. And what would have happened to Mr. Byrd if this was not  
17 excused?

18 A. If it was not excused, he would have been subject to  
19 disciplinary action.

20 Q. And back to the first page, Shinhoster, what would have  
21 happened to that officer if that was not excused?

22 A. If the first one was not excused? Well, the first one  
23 was not excused.

24 Q. Oh, I'm sorry. Yeah.

25 A. And he did receive discipline, I'm sure, as a result of

1 that.

2 Q. Thank you. All right. And then going to the third  
3 page, would you please walk us through that and outline  
4 what's going on there?

5 A. Sure. So this is an officer who had a medical issue  
6 that related to her calling out, making a late notification  
7 callout. Officers have to call out within a certain time  
8 frame to give us time to attempt to cover for them. She was  
9 unable to meet that time window. In this case, Captain Reyes  
10 recommended excusing based on the mitigating circumstances  
11 that the medical condition was outside of her control.

12 Q. Do you know why things are blacked out on this page?

13 A. Yeah. This would be sensitive information pertaining to  
14 this officer and the medical condition.

15 Q. Do you know which officer was referenced in these  
16 emails?

17 A. Yes, I do.

18 MR. SELEMAN: Move for the admission of Employer  
19 Exhibit 21.

20 MR. MOORE: No objection.

21 HEARING OFFICER CORA: Hearing no objection, Employer's  
22 Exhibit 21 is admitted into evidence.

23 **(Employer's Exhibit 21 received in evidence.)**

24 Q. BY MR. SELEMAN: Other than the things that you've  
25 testified about, are there any other ways that lieutenants

1 and captains are treated differently than officers?

2 A. Sure. There's a number of ways. Lieutenants and  
3 captains earn a greater hourly rate than officers. So a  
4 lieutenant would make about \$5 an hour more than the highest  
5 paid officer. A captain makes a little bit more than a  
6 lieutenant. So a captain would make another \$4 an hour more  
7 than a lieutenant would, give or take.

8 In addition to that, they wear different uniforms. So  
9 captains and lieutenants have a distinctive shirt. Captains  
10 and lieutenants report into work earlier than officers do, 10  
11 minutes earlier each day, in order to attend a turnover  
12 briefing that's only attended by captains and lieutenants.  
13 Their turnover time at the end of the shift may be extended  
14 based on the amount of information that they're having to  
15 communicate when they change shifts.

16 Captains and lieutenants attend leadership training on  
17 an annual basis. They attend approximately 24 hours of  
18 leadership training that officers are not party to. Captains  
19 and lieutenants would attend periodic what we call MRM, or  
20 management review meetings, where they present reports about  
21 their individual team's performance in a given period. We do  
22 that currently on a trimester basis, and again, that's just  
23 captains and lieutenants, no officers.

24 There's specialized training involved in being a  
25 lieutenant or a captain. A lieutenant would receive at least

1 6 weeks, maybe as much as 8 weeks or more, of specialized  
2 training when they get promoted, pertaining to operating and  
3 maintaining -- or operating and monitoring alarm station  
4 equipment, so security equipment, camera systems, and so on.  
5 They'll receive specialized training to work as response team  
6 leaders. So they have more responsibility, as we previously  
7 discussed, in terms of force-on-force type events.

8 So there's numerous ways that we treat captains and  
9 lieutenants differently. There's a higher bonus amount for  
10 the annual performance incentive bonus where lieutenants and  
11 captains earn higher bonuses at the end of the year than  
12 officers do.

13 Q. Any communications that go out just to lieutenants and  
14 captains and not security officers?

15 A. Yes. There's frequently communications that will go out  
16 from members of the staff, myself, the operations or training  
17 coordinators, that will only go out to captains or will only  
18 go out to captains and lieutenants, not the officers.

19 Q. As project manager, do you consider lieutenants to be  
20 part of supervision?

21 A. Yes, absolutely.

22 Q. Do you consider captains to be part of supervision?

23 A. Absolutely.

24 Q. Why do you consider lieutenants to be part of  
25 supervision? Strike that.

1           If lieutenants are not supervisors, who's in charge?

2   A.   Then it would be the captains.

3   Q.   And if the lieutenants are not supervisors, how many  
4   people would the captain be overseeing?

5   A.   If the lieutenants were not supervisors, the captains  
6   would be directly overseeing anywhere between 30 and 40  
7   security officers on a shift, and those officers would be  
8   spread out geographically throughout the plant to where the  
9   captain simply couldn't cover that many individuals at once  
10   and provide effective oversight and supervision.

11   Q.   Thirty to 40 officers, you said?

12   A.   I'm sorry, 30 to 40 personnel, officers and lieutenants  
13   included.

14   Q.   And what kind of physical area would the captain then be  
15   overseeing on his own?

16   A.   You're talking several acres. I mean, I couldn't give  
17   you a specific area, but it would be a large area, and it  
18   would take a significant amount of time to cover that entire  
19   area. The captain just couldn't cover that many positions  
20   effectively.

21   Q.   Are there many buildings that G4S guards at the site?

22   A.   Yes, it's a fairly good-sized site. There's multiple  
23   buildings. There's individuals that are inside the confines  
24   of the fence line of the site. There's individuals that are  
25   outside. It covers a very large geographic area.



1 Q. If the lieutenants and captains are not supervisors,  
2 then who's in charge?

3 A. Then nobody's in charge.

4 MR. SELEMAN: Nothing further.

5 MR. MOORE: Can we go off the record?

6 HEARING OFFICER CORA: Off the record.

7 (Off the record from 1:14 p.m. to 1:18 p.m.)

8 HEARING OFFICER CORA: During off-the-record  
9 discussions, the parties have agreed, just for efficiency  
10 purposes, to move forward with the hearing. Mr. Moore,  
11 Petitioner's counsel, is going to reserve his cross for after  
12 Employer's counsel puts on his next witness and, thus, after  
13 that, cross both Mr. Scott and the following witness that  
14 will be called.

15 Correct? Is that a correct reflection of our off-the-  
16 record discussion?

17 MR. SELEMAN: Yes. I'm sorry. I wasn't listening that  
18 carefully. I'm sure it was accurate.

19 HEARING OFFICER CORA: Okay. So, Mr. Scott, you're  
20 temporarily excused until you are recalled for your cross-  
21 examination.

22 (Witness excused.)

23 MR. SELEMAN: Employer calls Steve Bonnell.

24 HEARING OFFICER CORA: Please raise your right hand.

25 (Whereupon,

1                                   STEVEN K. BONNELL

2    was called as a witness by and on behalf of the Employer and,  
3    after having been first duly sworn, was examined and  
4    testified as follows:)

5           HEARING OFFICER CORA:   You may have a seat.   Please  
6    state your name and spell it for the record.

7           THE WITNESS:   Steven Kenneth Bonnell, S-t-e-v-e-n,  
8    Kenneth, K-e-n-n-e-t-h, Bonnell, B-o-n-n-e-l-l.

9                                   DIRECT EXAMINATION

10   Q.   BY MR. SELEMAN:   Who are you employed by?

11   A.   G4S.

12   Q.   How long have you been employed by G4S?

13   A.   Eleven and a half years.

14   Q.   What is your current position?

15   A.   I'm the -- captain on Alpha Team.

16   Q.   Approximately how long have you held that position?

17   A.   Solid for the last year as captain.

18   Q.   And what position did you hold before that?

19   A.   I was lieutenant and backup captain.

20   Q.   About how long were you a lieutenant?

21   A.   Lieutenant for 10 years.

22   Q.   And how long have you worked at Turkey Point all  
23   together?

24   A.   Eleven and a half years.

25   Q.   Were you working at the site before you were a

1 lieutenant?

2 A. Yes, as a security officer.

3 Q. As a lieutenant, did you have any role in the issuance  
4 of discipline to security officers?

5 A. Yes.

6 Q. As far as you understood, did that role change at any  
7 point?

8 A. Yes. In the last few years, there was more of a push to  
9 get the lieutenants to be involved without guidance or  
10 direction from the captains to issue documents, to issue  
11 coachings or discipline actions.

12 Q. What do you mean when you say issue?

13 A. As far as looking at circumstances, looking at the  
14 incidents that happened, taking the facts into consideration,  
15 and then taking the appropriate actions to report it.

16 Q. Did you have occasion to issue any disciplinary actions  
17 while you were still a lieutenant after that change, so to  
18 speak, for anything other than attendance issues?

19 A. Yes.

20 Q. Would you walk us through one of those, if you recall?

21 A. Sure. I had an issue where an officer had violated a  
22 sign, violated a caution, a warning sign that they were not  
23 supposed to enter into an area, which they used -- which they  
24 violated basically because of past incidents that had  
25 happened where a certain department did not want security to

1 go into that area, and instead of just keeping them out, they  
2 put a sign up that says it's out of order. And he basically  
3 ignored the sign, went in. And I issued documentation on  
4 that -- a disciplinary action on that because he just ignored  
5 the signs.

6 Q. Do you recall who the security officer was?

7 A. Yes, I do. It was Officer Dennis.

8 Q. Do you recall what level of infraction you decided it  
9 was?

10 A. I do not. I believe that was a written -- I believe it  
11 was an oral, an oral.

12 Q. Do you recall whether you could have issued a coaching  
13 to that officer instead?

14 A. Yes, I could have issued a coaching.

15 Q. Do you recall if it was something that you could have  
16 decided it was a Level III as opposed to a Level II, or vice  
17 versa?

18 A. Yes, it could have.

19 Q. Did you consult with anybody before deciding to issue  
20 that disciplinary action?

21 A. No, I did not.

22 Q. Do you recall issuing any other disciplinary actions  
23 during that same time frame, again, after that change came to  
24 your attention and before you were promoted to captain?

25 A. I know I have, but specifically, no, I cannot say. As a

1 lieutenant you're saying?

2 Q. Yes.

3 A. Yes, I cannot specifically say due to the role that I  
4 was, but I'm sure I have.

5 Q. When you were a lieutenant, were there occasions where  
6 you decided to issue a coaching instead of a disciplinary  
7 action?

8 A. Yes.

9 Q. Can you recall any of those?

10 A. Yes. I did have an individual that basically had  
11 violated a PPE, personal protective equipment, warning where  
12 they traversed through a gate without having gloves on. In  
13 the process of that, you could make a determination whether  
14 it was a disciplinary for failure to follow policy or a  
15 coaching because it was a one-time incident, and I determined  
16 to make it a coaching issue.

17 Q. Do you recall approximately when that coaching was  
18 issued?

19 A. It's been a few years back. Not exactly the date, no.

20 Q. Did you issue many coachings as a lieutenant?

21 A. Yes.

22 Q. Were there other coachings where you recall could have  
23 resulted in discipline instead of a coaching?

24 A. Yes.

25 Q. Did you generally go to your captain and get approval to

1 issue a coaching instead of go down the disciplinary action  
2 path?

3 A. In general, no, it was my decision.

4 Q. Is it your understanding that lieutenants generally have  
5 to consult with a captain before issuing a coaching?

6 A. No, it's not. I have that authority and that  
7 expectation to do it on my own as a lieutenant.

8 Q. Do you personally know that other lieutenants do that?

9 A. Yes.

10 Q. How do you know that?

11 A. By lieutenants that work for me that do the same thing.  
12 I get their coachings or their disciplinary actions. Once  
13 they issue them to the individuals, they forward it up to me,  
14 and I'll see them at that time.

15 Q. Do you personally know that lieutenants that work for  
16 you have issued coachings to their security officers without  
17 checking with you first?

18 A. Yes. The first time I see -- already entered to me as  
19 far as already coaching done.

20 Q. Can you give an approximation of how many of those  
21 coachings you've seen from your lieutenants in the last year  
22 and a half?

23 A. Quite a few. A number, no, I couldn't put a number on  
24 it, but quite a few.

25 Q. More than 10?

- 1 A. Yes.
- 2 Q. More than 20?
- 3 A. Maybe getting in that area, yeah.
- 4 Q. Let me ask the question this way.
- 5 A. Sure.
- 6 Q. In a given month, approximately how many coachings do  
7 you see come to you that our lieutenants have already issued  
8 without talking to you?
- 9 A. Maybe a half dozen.
- 10 Q. And are there coachings that you see and you look at  
11 and, based on the incidences that are set forth in the  
12 coaching, that you look at them and think that they could  
13 have resulted in discipline?
- 14 A. Yes, sir.
- 15 Q. As a captain, have you ever taken any actions to  
16 communicate to your lieutenants their role in the  
17 disciplinary process?
- 18 A. Yes. We have team meetings. We've had some supervisory  
19 meetings where I've addressed them of my expectations of what  
20 I expect them to do, what -- do and the actions they're  
21 supposed to be taking without my guidance, without my  
22 direction, but what I expect them to do as a lieutenant for  
23 disciplinary issues.
- 24 Q. And what have you told them are your expectations about  
25 the issuance of disciplines to security officers?

1 A. If they have any discrepancies that they see, they can  
2 decide if it's a coaching as the disciplinary action, and  
3 using their judgments, they can issue what they determine  
4 necessary.

5 Q. When you were a lieutenant, did security officers ever  
6 ask you if they could swap posts?

7 A. Yes, a lot of times they did.

8 Q. What does that mean when people refer to swapping posts?

9 A. Swapping posts means basically what position they're  
10 working in -- if they're working inside, outside, if they're  
11 on a position where they may be climbing stairs or sitting  
12 inside of a BB -- an enclosure all day long and not moving  
13 around.

14 Q. What were you going to say? Just because I'm sure it'll  
15 get mentioned at some point.

16 A. I said BBRE unit. It's an enclosure that we have that's  
17 blast resistant.

18 Q. Does that stand for something, BBRE?

19 A. Ballistic Blast Resistant Environment.

20 Q. Okay. But us folks, us naïve folks can picture what,  
21 like an armored box type thing?

22 A. It's like an armored box, yeah.

23 Q. Did you ever want to swap posts when you were an  
24 officer?

25 A. Yes, I did.



1 Q. Why would you want to do that?

2 A. I'm one that likes to move around. I don't like to sit  
3 somewhere and be contained in a box, so I would always  
4 volunteer to be outside where I'm walking around or out in  
5 the environment versus locked up in a box.

6 Q. Do you know if different officers have different  
7 preferences about different posts?

8 A. Most of them do.

9 Q. How do you know that?

10 A. Again, they'll address issues. They'll come to me and  
11 say can I change position, you know, I don't want to be here,  
12 I want to be there. They'll go to the lieutenants while  
13 they're out in the field, they'll talk to the shift  
14 supervisor out in the field and ask him if they can trade  
15 positions or trade posts due to weather, due to personal  
16 dealings that they -- you know, what they want to do.

17 Q. Any reasons you know of why people would prefer one post  
18 or another in addition to the ones you've identified? You  
19 know, you mentioned inside versus outside, you mentioned  
20 stairs, you mentioned mobile versus stationary type idea.

21 Any other reasons why somebody might prefer one over another?

22 A. Physical dealings or physical conditions. They may have  
23 done something to where maybe they're fit for duty but  
24 they're not really to that position where they just want to  
25 sit somewhere all day long. They might want to be out where

1 they're mobile. Someone may have done something where  
2 they're not feeling that well and they don't want to be out  
3 walking around.

4 Q. Any posts that have greater access to things like  
5 vending machines or bathrooms?

6 A. Pretty much, wherever they are, some posts have better  
7 accessibility to a restroom, and there's other places where  
8 you actually have to get relieved before you get -- some  
9 requirements that we have. They can't just go to the  
10 bathroom.

11 Q. Is closer proximity to a bathroom anything that officers  
12 care about?

13 A. Yes, it is.

14 Q. How about closer proximity to food or vending machines?

15 A. Most of the officers bring food, drinks with them.  
16 Depending on where their posts are also, where they're at,  
17 and that might make a decision as far as where they want to  
18 be for the day, if they have food available or not. And if  
19 not, then they may want to be at a post where they do have  
20 access to a vending machine.

21 Q. Is there anything that people would want access to if  
22 they brought their food that might make one post more  
23 preferable to them than another?

24 A. Access to water fountains or water, you know, things  
25 like that.

1 Q. Are there microwaves anywhere?

2 A. We do have microwaves. In our sports center and a  
3 couple other locations, we do have a microwave available.

4 Q. Are there some posts that are more accessible to the  
5 microwaves than others?

6 A. Yes.

7 Q. Is that something that in your experience that some  
8 security officers would care about?

9 A. Definitely.

10 Q. Did you have the authority to approve post swaps as a  
11 lieutenant?

12 A. Yes.

13 Q. Did you do so?

14 A. Yes.

15 Q. How often did that come up?

16 A. More often than not. I mean, that would be --

17 Q. Like once a day, once a week, once a month?

18 A. As far as the day goes, I'd say in our 2-day to 3-day  
19 cycle, one of the days or two of the days, sometimes maybe on  
20 a three-day cycle all three of the days, somebody would want  
21 to switch posts.

22 Q. Did you ever say no to a security officer request to  
23 swap posts?

24 A. Yes. Yes. Sometimes I did due to maybe -- requirements  
25 that were going to be happening at that post that day, or

1 certain conditions that were there that I did not want a  
2 certain individual there or what other purpose I decided and  
3 didn't allow that post change.

4 Q. And I'm sorry, I was having a little trouble hearing  
5 you. What were the sorts of things you would consider in  
6 deciding whether to say yes or no to a request?

7 A. Well, it could be there were maybe some work activities  
8 or some conditions to that post that maybe the individual is  
9 not aware of that I was aware of that I didn't think that  
10 individual was the best candidate for that position at that  
11 time.

12 Q. Based on what kind of criteria about that individual?

13 A. Based on my knowledge of the individual, my experience,  
14 my relationship with the individual, my experiences with him  
15 as far as what he was able to do or not able.

16 Q. I mean, I guess I'm not following you. Are you talking  
17 about their abilities or their -- what is it about the  
18 individuals that you were considering in your experience that  
19 led to you deciding yes or no to the request?

20 A. Abilities. Like maybe the issue of I may have somebody  
21 that may have a special diet for some reason or coming back  
22 from a medical -- had a medical procedure or something where  
23 they're not capable of -- I don't want to say not capable.  
24 Where they need more accessibility to a restroom. So I put  
25 an individual where he's near a restroom all the time.

1   Somebody will want to swap a post for that, and I won't let  
2   that happen because I need to keep that individual there for  
3   his personal needs at that time.

4   Q.   Did skills play a role in your decision ever?

5   A.   Again, all of our guys are qualified, you know, for all  
6   positions.  However, there are some people that are better at  
7   other things -- you know, some things than others.  So there  
8   is a possibility that some of the posts were decided based  
9   upon the individual themselves, not so much that he could or  
10   couldn't do it but who could do it better.

11       MR. SELEMAN:  Nothing further.

12                                   **CROSS-EXAMINATION**

13   Q.   BY MR. MOORE:  The first example that you were asked  
14   about was a security officer who violated a warning sign, and  
15   as a result, you gave an oral warning, or was it a coaching?

16   A.   It was not a coaching on that one due to the fact that  
17   it was a -- he had violated a -- I don't know how to say it.  
18   He violated a sign that he should not go into an area, and he  
19   decided to go into it anyway.  To me, it was more of a  
20   blatant disregard for the sign.

21   Q.   Okay.  But I understand you thought maybe it was an oral  
22   warning but it could have been a coaching?  You just don't  
23   recall specifically?

24   A.   It was more than a coaching.  It was a disciplinary  
25   action on him.

1 Q. And when did this occur approximately?

2 A. This was in 2016.

3 Q. And then you were asked about other cases which you, as  
4 I understood, you really couldn't identify. There have been  
5 some but -- I'm sorry, other examples where you decided a  
6 discipline versus a coaching. You said there were other  
7 examples, but you couldn't recall any specifics; is that  
8 correct?

9 A. That is correct.

10 Q. And you said you generally didn't go to the captain  
11 about such decisions, but there were times when you did?

12 A. Occasionally, I might go to the captain if I had -- if I  
13 didn't have all the information about an individual, I  
14 thought there was something that I needed to discuss with the  
15 captain beforehand, I definitely had that open door to talk  
16 to him.

17 Q. And in terms of swapping posts, is it fair to say that  
18 your fundamental responsibility as a lieutenant was to make  
19 sure that all the posts that were directly under you were  
20 properly staffed?

21 A. Properly staffed by the proper individuals, yes.

22 Q. So if someone wanted to swap a post, and I gather that's  
23 a relatively common occurrence?

24 A. Yes.

25 Q. Fundamentally, you just want to make sure all the posts

1 get covered?

2 A. Yes.

3 Q. And when you were asked to explain when you might  
4 decline such a request, if I understood you correctly at  
5 least, one thing you identified was your view of  
6 accommodating the -- well, in this case a medical condition  
7 of someone?

8 A. Yes.

9 Q. You said all the members were qualified?

10 A. That's correct.

11 Q. Have there been disciplinary decisions you've made as a  
12 captain where you consulted with someone higher up in  
13 management, the coordinator or the project manager?

14 A. Yes.

15 Q. And those folks, they normally work Monday through  
16 Friday, business hours, so to speak?

17 A. Correct.

18 Q. But you have access to them 24/7, correct?

19 A. Yes, sir.

20 Q. So if a situation arises at 3 in the morning on a  
21 Saturday and you believe you need to consult with the project  
22 manager, you at least have the opportunity to get in touch  
23 with that person, right?

24 A. If I had to, yes. I'm dayshift captain, so --

25 Q. I'm sorry.

- 1 A. -- I wouldn't do the 3:00 in the morning call.
- 2 Q. Well, you work days on weekends, right?
- 3 A. Yes. I work days 7 days a week.
- 4 Q. So if it's 3 in the afternoon on a Saturday, you may --
- 5 there've been occasions when you felt the need to contact the
- 6 project manager before making a decision?
- 7 A. If I had to, yes.
- 8 Q. Well, that's in fact occurred, hasn't it?
- 9 A. I don't know if I've had to make a call off duty hours
- 10 as far as disciplinary actions or something like that, none
- 11 that I'm aware of.
- 12 Q. Is that because situations simply haven't arisen in
- 13 so-called off duty hours, and by that I mean off duty for the
- 14 project manager?
- 15 A. Yes.
- 16 Q. So your consultations with the project manager which you
- 17 say have occurred would be occurring Monday through Friday,
- 18 9 to 5, more or less?
- 19 A. If I've had any, that would be when they would happen,
- 20 yes, sir, if I felt it was necessary.
- 21 MR. MOORE: No other questions.
- 22 HEARING OFFICER CORA: I have a couple questions. You
- 23 mentioned that, as a captain, the lieutenants forward the
- 24 coachings to you. What do you do with those coachings?
- 25 THE WITNESS: I make sure they're entered into our



1 database as far as if the lieutenants have entered them in,  
2 they're collected and entered in, and then those are given to  
3 our admin personnel to go in their personnel records.

4 HEARING OFFICER CORA: What's the significance of a  
5 coaching? Like how does it impact -- what is a coaching?  
6 What does it --

7 THE WITNESS: The purpose of a coaching is the  
8 lieutenant or the captain may have felt that the discrepancy  
9 wasn't enough to warrant a disciplinary action but it was  
10 basically to change a behavior habit, to go -- it's a  
11 corrective situation, not a disciplinary action basically.  
12 Change of behavior.

13 HEARING OFFICER CORA: Does it impact at all an  
14 employee's -- you know, any future discipline or an  
15 evaluation, a promotion? Does it have any impact? Is it  
16 considered?

17 THE WITNESS: It is considered, yes.

18 HEARING OFFICER CORA: When is it considered?

19 THE WITNESS: Depending upon --

20 HEARING OFFICER CORA: Like in what situation, what  
21 circumstances would you consider a coaching?

22 THE WITNESS: If you had a repeat of the same thing.  
23 You see the behavior change has not changed, and you've  
24 already issued a coaching for it, then it -- to go further  
25 than a coaching.

1 and exercises. So you have a tabletop exercises where you  
2 have basically a diorama or a model of the site and you move  
3 pieces around to simulate movements of armed officers.

4 HEARING OFFICER CORA: And who does this?

5 THE WITNESS: This would be facilitated by the  
6 lieutenants, and they do this cooperatively with the security  
7 officers. So lieutenants will ask as they would in the  
8 exercise, and they move themselves. They would relocate  
9 officers just as they would direct them to in the real world.

10 HEARING OFFICER CORA: And then who's involved in this  
11 drill? Is it just the lieutenants and the security officers,  
12 or is someone else present?

13 THE WITNESS: It would be security force members in  
14 general. So you would have captains, you would have  
15 lieutenants, and you would have security officers. Everybody  
16 who's a qualified armed officer, lieutenant, or captain has  
17 to participate in these drills.

18 HEARING OFFICER CORA: Do you participate in them?

19 THE WITNESS: No, not as project manager, no.

20 HEARING OFFICER CORA: And in the annual ones, you said  
21 they're full scale, so are they in the actual facility?

22 THE WITNESS: They're actually in the facility.

23 HEARING OFFICER CORA: Okay. Thank you.

24 THE WITNESS: Sure.

25 MR. MOORE: Excuse me a moment, please.

## 1 REDIRECT EXAMINATION

2 Q. BY MR. SELEMAN: Is a peer check a disciplinary event?

3 A. No.

4 Q. Is a peer check the same thing as a coaching?

5 A. Not necessarily. A peer check could mean a variety of  
6 things.7 Q. Did you review the files of the lieutenants and captains  
8 in preparation for this hearing?

9 A. Yes, I did.

10 Q. Do you recall -- referring to Employer Exhibit 8?

11 A. Um-hum.

12 Q. Do you recall how many of the current incumbent captains  
13 and lieutenants had a signed copy of Employer Exhibit 8 in  
14 their file?15 A. Out of 28 lieutenants and captains, I believe 21 had a  
16 signed copy in their file.17 Q. And with respect to Employer Exhibit 9, how many of the  
18 current lieutenants and captains had a signed version of  
19 Number 9 in their files?20 A. Twenty-seven out of 28 or 28 out of 28. It was either  
21 all or all but one.22 Q. Regarding the force-on-force, putting aside the tabletop  
23 drills, you referred to the rest as what, as a live event?

24 How do you -- a live drill? Is that what you would call it?

25 A. Sure. It's a full-scale exercise where you involve the

1 entire security force.

2 Q. And how often do you run a live force-on-force drill?

3 A. A full-scale force-on-force would be run -- we run it a  
4 number of times each year in order to accommodate the  
5 different teams that we have. So we would end up running six  
6 to eight individual exercises over the course of 4 different  
7 days because of our different teams and shifts. So some  
8 individuals participate more than others. Everyone would  
9 participate in at least one full-scale exercise annually in  
10 addition to the limited scope exercises, which are also live  
11 drills, but those are performed on a smaller scale with a  
12 portion of the security force.

13 Q. And approximately how often do those happen?

14 A. Those happen, typically, on a quarterly basis.

15 Q. Are there any live force-on-force drills where there's  
16 another party observing?

17 A. Yes. When we do our annual force-on-force exercises, we  
18 do an evaluated force-on-force every 3 years, which is  
19 observed by the Nuclear Regulatory Commission.

20 MR. SELEMAN: Nothing further.

21 MR. MOORE: I have nothing else.

22 HEARING OFFICER CORA: I'm going to take you way back.

23 THE WITNESS: Okay.

24 HEARING OFFICER CORA: Earlier in your testimony you  
25 mentioned backup captains in your testimony, and I want to

- 1 Q. And when were you first employed there?
- 2 A. March of 2006.
- 3 Q. And in what capacity were you employed there?
- 4 A. Nuclear security officer.
- 5 Q. And what position do you currently hold?
- 6 A. Lieutenant.
- 7 Q. And when did you reach the rank of lieutenant there?
- 8 A. October 2016.
- 9 Q. Let me direct your attention to Company Exhibit 4, which
- 10 I assume is in front of you somewhere.
- 11 A. There it is. The last one.
- 12 Q. This document is dated August 2nd, 2017. Have you had
- 13 an opportunity to see this particular document?
- 14 A. Yes, I have.
- 15 Q. And it's referenced as Revision Number 4, so are there
- 16 predecessor documents?
- 17 A. Yes, there's older revisions, three other revisions.
- 18 Q. Fair to say the predecessor documents, along the same
- 19 lines? Obviously, there are some differences, but --
- 20 A. Yes. Typically, each revision has minor changes. Well,
- 21 every once in a while it will be a major change, but yeah.
- 22 Q. You've been present throughout this proceeding, correct?
- 23 A. That's correct.
- 24 Q. Okay. Let me direct your attention to items that were
- 25 focused on by the Employer. Turning to page 3, 3.0 -- I'm

1 MR. MOORE: I don't have any other questions.

2 HEARING OFFICER CORA: Employer's counsel?

3 MR. SELEMAN: Could I have a moment, please?

4 HEARING OFFICER CORA: Sure.

5 MR. SELEMAN: Could we have 5 minutes?

6 HEARING OFFICER CORA: Yes. Off the record.

7 (Off the record from 5:05 p.m. to 5:12 p.m.)

8 HEARING OFFICER CORA: Employer's counsel, you may  
9 question the witness.

10 MR. SELEMAN: Yes. Thank you.

11 CROSS-EXAMINATION

12 Q. BY MR. SELEMAN: Mr. Campbell, when you were talking  
13 about relieving a security officer for one of a couple  
14 different reasons, not having proper license or  
15 qualifications or equipment, that sort of thing, I believe  
16 you said that you would step in for that security officer in  
17 those sort of situations; is that right?

18 A. That's correct.

19 Q. Okay. That's only until another security officer can  
20 arrive, if there's another security officer available, right?

21 A. Yes.

22 Q. That just depends if there's enough bodies to meet the  
23 manning, the minimum manning requirements?

24 A. Yes.

25 Q. When it comes to fitness for duty, how do you decide

1 whether a particular security officer is demonstrating  
2 aberrant behavior?

3 A. Well, if you know the security officer, you have to take  
4 on their past, right? So if you know the person is normally  
5 very energetic and they're not very energetic, then you've  
6 got to kind of -- that should be an indicator. Of course,  
7 there's the obvious stuff, if you smell alcohol and the type  
8 of things that we take through training, but --

9 Q. And isn't it true that you as a lieutenant went through  
10 extra training on fitness for duty that security officers  
11 don't go through?

12 A. You know, I can't confirm that, to be honest with you,  
13 off the top of my head. I apologize. I'm not trying to  
14 be --

15 Q. I believe you.

16 A. Sorry.

17 Q. So when you're determining that somebody is not as  
18 energetic as they normally would or you smell alcohol, what  
19 are you considering, what are you thinking about when you're  
20 deciding, well, this person looks like something is off  
21 today?

22 A. I'm wondering if they're able to do their job. Are they  
23 in a capacity where they can work, fitness for duty. Fitness  
24 for duty also includes mental capacity. They could have  
25 family issues at home. They could have other things

1 happening where they're just not in the mind frame to be  
2 there.

3 Q. Okay. So you're thinking about your knowledge of that  
4 security officer based on your past dealings with that  
5 security officer, right?

6 A. Yes.

7 Q. As somebody who is overseeing the work done by that  
8 security officer, right?

9 A. Yes.

10 Q. And you're determining whether what you are observing on  
11 that given day in terms of that security officer is different  
12 than what you have observed from that security officer on  
13 past occasions?

14 A. That's correct.

15 Q. And you are deciding that something doesn't seem quite  
16 right, correct?

17 A. Correct.

18 Q. And then based on those different sorts of factors, you  
19 then decide whether to relieve that person from duty,  
20 correct?

21 A. Not necessarily.

22 Q. Can you make that decision?

23 A. Yes, I can make that decision, yes.

24 Q. And can you make that decision on your own?

25 A. Yes.



1 Q. And if you did so, is it possible that that officer  
2 would then go home for the rest of the day, without pay?

3 A. That is a possibility.

4 Q. Has anybody ever told you that as a lieutenant you are  
5 expected to issue discipline, at least lower-level discipline  
6 to the security officers that report to you?

7 A. Yes. I received both of the emails.

8 Q. You have been instructed by your superiors that that is  
9 part of your job?

10 A. Yes. The expectation is that we take care of our own  
11 people, yes.

12 Q. When you've -- strike that.

13 Has a captain ever asked you what level of disciplinary  
14 action you think you should be issued to a security officer  
15 for some incident?

16 A. No.

17 Q. Have you ever provided a suggestion to your captain  
18 about what level of disciplinary action should be issued to a  
19 security officer?

20 A. No.

21 Q. In a force-on-force, are you saying there's no scenario  
22 where you would have to move the officers from one position  
23 to another position?

24 A. No, I didn't say that.

25 Q. Is that something that you would have to do based on the

1 situations that you are seeing?

2 A. We have to stay flexible. Each situation in each drill  
3 is going to be different. So there could be some where  
4 you're talking to many security officers and reiterating the  
5 same message that we're getting as far as information, what  
6 kind of threat it is and what it looks like their target is,  
7 and you're kind of just kind of repeating stuff.

8 Q. Is there any scenario where you are supposed to grab  
9 security officers who do not have a fixed position and deploy  
10 them somewhere based on your decision?

11 A. Yes, there is a scenario that exists for that.

12 Q. And in that sort of scenario, are you reacting to the  
13 different variables, such as the number of the opposition,  
14 the weapons of the opposition, the structural things to hide  
15 behind?

16 A. To some degree, yes.

17 Q. And in those scenarios where you were talking about  
18 you're just parroting the information that's coming to you,  
19 is there ever a scenario where the communications break down?

20 A. Yeah. A lot of times we do drill with no radios,  
21 actually.

22 Q. So at that point you're not in a position to simply  
23 parrot information that you're getting, correct?

24 A. That's correct.

25 Q. And at that point you have to make the decisions,

- 1 correct?
- 2 A. That's correct.
- 3 Q. And you have to deploy those security officers, correct?
- 4 A. The ones in my area, yes.
- 5 Q. And if this was a real attack on the facility based on
- 6 your decisions, your decisions could be the difference
- 7 between a security officer getting shot or not, correct?
- 8 A. That's correct.
- 9 Q. Even dying, correct?
- 10 A. That's correct.
- 11 Q. Are you aware that as a lieutenant you get a higher
- 12 hourly wage rate than security officers?
- 13 A. Of course.
- 14 Q. Why?
- 15 A. I'm asked to do more.
- 16 Q. What more do you do?
- 17 A. I stay busy the entire shift.
- 18 Q. Glad to hear it. The security officers don't stay busy
- 19 the whole shift?
- 20 A. Not like the lieutenants do, no.
- 21 Q. But other than being busier, why would G4S pay you more
- 22 money? I mean, the way you describe it, aren't you just sort
- 23 of walking around and checking the lists?
- 24 A. No, I did not describe it like that at all.
- 25 Q. Okay. Well, what justifies paying you a higher hourly

1 wage rate than the security officers?

2 A. Well, first of all, the lieutenants are trained.

3 Additionally, they are given more accountability as far as  
4 what areas they're supposed to check on, whether they're  
5 working the alarm station or as a field supervisor where  
6 you're walking around, checking different things. The buck's  
7 going to land on you a lot more.

8 Q. The buck's going to land on you a lot more for making  
9 sure that the security officers that report to you are doing  
10 their jobs properly, correct?

11 A. Yes.

12 Q. Because it's your job to oversee those security  
13 officers, correct?

14 A. Yes.

15 Q. It's your job to make sure that they're doing their jobs  
16 correctly, correct?

17 A. Yes.

18 Q. So you're one of the bosses, correct?

19 A. That's incorrect.

20 Q. Why don't you think you're one of the bosses?

21 A. Because I've been at Turkey Point since 2006, and what  
22 I've seen at Turkey Point since 2006 does not make me believe  
23 that lieutenants are one of the bosses.

24 Q. So when you say that, you're not saying you don't have  
25 any authority; you just think a boss should have more

1 HEARING OFFICER CORA: All right.

2 THE WITNESS: So we have a piece of paperwork that's  
3 called a place keeper that lets the officers go through an  
4 actual check sheet so they know they capture everything  
5 they're supposed to do when I'm passing over what I am to  
6 you. So you're the new call sign or the new post. And I was  
7 there. I had completed mine with the supervisor and I was  
8 getting ready to leave, and as one of the officers was  
9 compiling it over there, he -- they stopped and I asked what  
10 the issue was, and he looked to his supervisor, who was from  
11 the other shift, and said, oh, I left --

12 HEARING OFFICER CORA: Who was the supervisor? What  
13 position?

14 THE WITNESS: Oh, I'm sorry. I apologize. The other  
15 lieutenant.

16 HEARING OFFICER CORA: Okay.

17 THE WITNESS: So the security officer told the other  
18 lieutenant, oh, I forgot my -- I don't have any of my IDs, I  
19 have none of my credentials. He said I have to leave. So,  
20 you know, we only have so many minutes to do the turnover,  
21 not that it's pressured but, you know, you want to be  
22 efficient. And so now he had to leave, and everyone else was  
23 going.

24 So he had to take off to go and hold the security  
25 officer of the night shift up an additional number of

1 minutes, and he couldn't leave and he had to be held back.  
2 So I asked the lieutenant that was there for his side, are  
3 you going to speak to him about it, and they were kind of  
4 like -- they kind of shrugged their shoulders. I said, okay,  
5 I have a problem. I'll give him a coaching. And they didn't  
6 seem to --

7 HEARING OFFICER CORA: So you gave him a coaching?

8 THE WITNESS: Yeah.

9 HEARING OFFICER CORA: And describe the coaching.

10 THE WITNESS: So I went back and I did research to see  
11 exactly the terminology that was used on the coaching for  
12 similar events, and I wrote the coaching up and I presented  
13 it to my captain so he could bless it off or look to see how  
14 it looks, if it's appropriate. And that's it.

15 And then eventually I saw the security officer, you  
16 know, 2 days later or whatever it was, and called him into  
17 the office, and I had the other supervisor there. And I  
18 said, hey, really quick, I want to talk to you about what  
19 happened the other day; this is a coaching about what  
20 happened, yada, yada, yada. Okay, no problem, you know.

21 HEARING OFFICER CORA: Is that the only coaching you've  
22 done?

23 THE WITNESS: Yes. As a supervisor, yes.

24 HEARING OFFICER CORA: Okay.

25 THE WITNESS: On paper. On paper. I coach all the time

1 to work, if you needed time off or anything like that, who  
2 would you ask or tell?

3 THE WITNESS: I would call the captain primarily, yeah.

4 HEARING OFFICER CORA: Does anybody have any further  
5 questions?

6 MR. SELEMAN: I think just one.

7 HEARING OFFICER CORA: Okay.

8 Q. BY MR. SELEMAN: If a security officer has received a,  
9 let's say, written coaching for some sort of infraction, is  
10 it more likely that the security officer will receive a  
11 discipline action the next time he or she engages in the same  
12 sort of infraction?

13 A. Not necessarily at all.

14 Q. Is that possible?

15 A. It is possible, yes.

16 Q. It really depends on the type of infraction we're  
17 talking about, right?

18 A. Absolutely. Absolutely.

19 MR. SELEMAN: No more questions.

20 MR. MOORE: I have nothing.

21 HEARING OFFICER CORA: You're excused. Thank you.

22 THE WITNESS: The chair's comfortable. The chair's  
23 comfortable. I could sit here for a little while.

24 **(Witness excused.)**

25 MR. MOORE: Can we go off the record?

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 12

In the Matter of:

G4S SECURE SOLUTIONS (USA), INC.,

Employer,

and

INTERNATIONAL UNION, SECURITY,  
POLICE AND FIRE PROFESSIONALS OF  
AMERICA (SPFPA),

Petitioner.

Case No. 12-RC-203988

The continuation of the above-entitled matter came on for hearing pursuant to notice, before CRISTINA CORA, Hearing Officer, at the National Labor Relations Board, 51 SW 1st Avenue, Room 1320, Miami, Florida, on Friday, August 18, 2017, at 9:15 a.m.



A P P E A R A N C E S

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1		<u>I N D E X</u>				
2						VOIR
3	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>DIRE</u>
4						
5	James Casey Scott	223	230	233	--	--
6						
7	Charlotte L. Johnson	237	262	279	--	--
8						
9	Max Tai	291	301	--	--	--
10						
11	Michael Mareth	320	--	--	--	--
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2	<u>EXHIBITS</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
3	EMPLOYER'S		
4	E-14 and E-15 (modified)	227	227
5			
6	PETITIONER'S		
7	P-1	231	233
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P R O C E E D I N G S

(Time Noted: 10:14 a.m.)

1  
2  
3 HEARING OFFICER CORA: At this time we're going to  
4 recall Mr. Scott in order for the Employer to have an  
5 opportunity to explain the modifications made to Employer's  
6 Exhibit 14 and 15. Mr. Scott, I'd like to remind you that  
7 you are still under oath.

8 MR. SCOTT: I understand.

9 MR. SELEMAN: I'd like to ask for a little leeway in at  
10 least asking a few sort of leading questions on what we've  
11 done with the documents before we -- I would ask any  
12 questions about who signed something. If that's not okay,  
13 that's -- I just thought I would ask.

14 HEARING OFFICER CORA: You can ask the question, but  
15 Petitioner may object.

16 MR. SELEMAN: Yeah, yeah, of course, of course.

17 HEARING OFFICER CORA: But you can give it a try.

18 MR. SELEMAN: Okay.

19 (Whereupon,

20 **JAMES CASEY SCOTT**

21 was recalled as a witness by and on behalf of the Employer  
22 and, after having been previously duly sworn, was examined  
23 and testified as follows:)

24 **DIRECT EXAMINATION**

25 Q. BY MR. SELEMAN: Mr. Scott, since yesterday have --

1 you've removed -- you've identified some of the documents  
2 that are in Employer's Exhibit 14 as documents that were not  
3 issued by a lieutenant to a security officer; is that right?

4 A. Yes, that's correct.

5 Q. Are you in a position -- let me ask you this, have you  
6 revised Employer's Exhibit 15 to now identify the people  
7 that are just lieutenants who issue disciplined that are now  
8 the people in stack 14, Employer's Exhibit 14?

9 A. Yes, the new Exhibit 15 reflects only those individuals  
10 who were lieutenants at the time of the issuance of  
11 discipline.

12 Q. And how have you identified on 15 the notices in 14 that  
13 are not ones issued by a lieutenant to a security officer?

14 A. The Exhibit 15 either would not list the disciplines in  
15 Exhibit 14 that were not issued by lieutenants or they would  
16 be lined out.

17 Q. Do you have a copy of Employer's Exhibit 15 in front of  
18 you?

19 A. I have the original Exhibit 15.

20 Q. Showing you a new -- a revised Employer's Exhibit 15,  
21 would you please look through that list of the people listed  
22 as the ones who issued the notices? Are all of those people  
23 on that list people that were lieutenants as of the date of  
24 issuance of the notice?

25 A. Yes, all of the people listed on Exhibit 15 were

1   lieutenants at the date of issuance.

2           HEARING OFFICER CORA:   Are the ones that are scratched  
3   out?

4           THE WITNESS:   Less the ones that are scratched out.

5           HEARING OFFICER CORA:   Okay.   I want to point you to  
6   Clayton Gary, that on the left-hand side the number's  
7   scratched out, but his name is -- I'm sorry, the person who  
8   issued his discipline is not scratched out, but there's a  
9   number on the right-hand side.   Is that -- what is that?  
10   Can you just explain that designation?

11          THE WITNESS:   Sure.   So the ones where the numbers on  
12   the left-hand side are lined out, those numbers did not  
13   accurately reflect the discipline, I mean, to the 14.   So  
14   the number that accurately reflects the discipline in  
15   Exhibit 14 is the number written to the right of the name.

16          HEARING OFFICER CORA:   Thank you.

17          THE WITNESS:   Sure.

18          HEARING OFFICER CORA:   And are any of the people listed  
19   under the Issued By column, were any -- you've testified  
20   they're all lieutenants at the time they issued?

21          THE WITNESS:   Yes, that's correct.

22          HEARING OFFICER CORA:   But none of them were backup  
23   captains at the time of issuance?   They're all --

24          THE WITNESS:   They, no, they would have been  
25   lieutenants --

1 HEARING OFFICER CORA: Okay.

2 THE WITNESS: -- at the time of the issuance, yes.

3 HEARING OFFICER CORA: Correct. Thank you. Are the  
4 ones that are scratched out, for example, Cesar -- if I take  
5 you one by one, Cesar Cerda, which is just scratched out, I  
6 noticed there's no number designation and just the whole  
7 thing's scratched out?

8 THE WITNESS: Correct. That was an error on Exhibit 15  
9 that -- we don't even have a hard copy of that disciplinary  
10 form.

11 HEARING OFFICER CORA: Okay --

12 MR. MOORE: I'm sorry, what? I don't see Cesar?

13 HEARING OFFICER CORA: Oh, sorry, I'm looking at the  
14 Issued By. Cesar Cerda is scratched out on page 1 --

15 MR. MOORE: Oh.

16 HEARING OFFICER CORA: -- but has --

17 MR. MOORE: I'm sorry, I was looking at the wrong  
18 column.

19 HEARING OFFICER CORA: Right. Just for clarification,  
20 the Issued To is Flores, Javier, and it contains no  
21 designation, no number, but his name -- the issued by Cesar  
22 Cerda is scratched out.

23 MR. MOORE: Okay. Thank you.

24 HEARING OFFICER CORA: I think that's the only one  
25 scratched out. Okay.

1 THE WITNESS: Okay.

2 HEARING OFFICER CORA: Thank you.

3 THE WITNESS: Sure.

4 HEARING OFFICER CORA: Let's go off the record a second.

5 (Off the record from 10:20 a.m. to 10:22 a.m.)

6 HEARING OFFICER CORA: The parties have agreed that  
7 Exhibit 14 is going to be updated in the record to show it's  
8 a modified Exhibit 14. Modification was -- it now has  
9 designations on the --

10 MR. MOORE: Lower left.

11 HEARING OFFICER CORA: -- lower left corner of the page,  
12 and those designations will generally correspond to the  
13 designations in Exhibit 15. Is that an accurate description  
14 of the agreement between the parties?

15 MR. MOORE: Yes.

16 MR. SELEMAN: Yes.

17 HEARING OFFICER CORA: Thank you.

18 (Employer's Exhibits 14 and 15 modified and received in  
19 evidence.)

20 Q. BY MR. SELEMAN: Mr. Scott, if you could, would you  
21 please go through Employer's Exhibit 14 and identify the  
22 pages that are not listed in Employer's Exhibit 15?

23 A. Yes. The first one would be Exhibit 14-1. The next one  
24 would be 14-3 followed by 14-13. Then 14-25, 14-26, 14-27,  
25 14-32, 14-36. That's all of them.



1 MR. SELEMAN: Can we go off the record for a moment?

2 HEARING OFFICER CORA: Off the record.

3 (Off the record from 10:24 a.m. to 10:32 a.m.)

4 HEARING OFFICER CORA: During off-the-record discussion  
5 the parties reviewed Exhibit 14 and 15 and compared. It  
6 seems that the witness, Mr. Scott, had the -- an incorrect  
7 copy of Exhibit 14, which is what he based his testimony  
8 on -- the testimony he just gave regarding the designations  
9 that are not included in Exhibit 15.

10 The parties have reviewed the document and are in  
11 agreement that he did have the incorrect in front of him,  
12 and therefore Employer's counsel, if you could please -- is  
13 this a correct description of our off-the-record  
14 discussions, counsel?

15 MR. SELEMAN: Yes.

16 MR. MOORE: Yes.

17 HEARING OFFICER CORA: So Employer's counsel, can you  
18 please repeat the question that you stated to Mr. Scott so  
19 that he can clarify?

20 MR. SELEMAN: I'll try.

21 Q. BY MR. SELEMAN: Mr. Scott, would you please go through  
22 and identify the documents that are in Employer's Exhibit 14  
23 but not on Employer's Exhibit 15?

24 A. Yes. So that would be Exhibit 14-1, Exhibit 14-3,  
25 14-13, 14-20, 14-21, 14-22, 14-32, 14-36, 14-89, and 14-90.

1 Q. And regarding the pages in Employer's Exhibit 14 that  
2 you just listed, what are the reasons why those pages are  
3 not on the revised Employer's Exhibit 15?

4 A. These pages are not listed on revised Exhibit 15 because  
5 they were either issued by captains or issued to lieutenants  
6 or issued by individuals that we cannot identify.

7 Q. As Employer's Exhibit 15 now appears, is everybody in  
8 the column as somebody who issued -- the Issued By column,  
9 is everybody in that column somebody who is a lieutenant and  
10 acting as a lieutenant as of the date of issuance of each of  
11 those notices?

12 A. Yes, that's correct.

13 MR. SELEMAN: Thank you.

14 HEARING OFFICER CORA: I do have one question. Can you  
15 just identify from the short list you just listed, the  
16 designation, which ones or how many of those were issued to  
17 lieutenants?

18 THE WITNESS: Just one of them.

19 HEARING OFFICER CORA: Which designation does that one  
20 have?

21 THE WITNESS: That would be 14-3.

22 HEARING OFFICER CORA: So can you just explain who  
23 issued it and what their position is and who is that issued  
24 to and their position?

25 THE WITNESS: Sure. So 14-3 was issued to a lieutenant

1 (Off the record from 12:04 p.m. to 12:06 p.m.)

2 Q. BY MR. MOORE: Okay. Could I direct your attention to  
3 page 14-39 of Exhibit, Employer Exhibit 14?

4 A. Yeah, 14-39.

5 Q. There should be a notation in the lower left-hand  
6 corner.

7 A. Okay. I'm there.

8 Q. Is that your signature at the bottom of this form?

9 A. That is correct.

10 Q. Okay. So you issued this corrective action notice,  
11 correct?

12 A. That is correct.

13 Q. Did you consult with anyone, a captain, a project  
14 manager, before issuing this?

15 A. Yes.

16 Q. Who did you consult with?

17 A. Captain Charlotte Johnson.

18 Q. And why did you do that?

19 A. Because that is the expectation for a -- for a  
20 suspension.

21 Q. And did you have some question about what appropriate  
22 discipline should be entered in this case?

23 A. I did review the officer's personnel summary, also the  
24 written procedure for a progressive discipline, and  
25 contacted the captain.

1 I'm not supposed to. Like you want to make sure you're  
2 investigating, you know, the facts before you issue  
3 something like that. Procedurally-wise, you don't want to  
4 get into something where it's invalid.

5 Q. When you go to the captain in those situations, are you  
6 going to her here? Who's your captain?

7 A. Captain Charlotte Johnson.

8 Q. Okay. That's what I thought. When you go to Captain  
9 Johnson, do you go to her with some suggestion? I mean,  
10 you've already investigated and considered this. Do you go  
11 to her and say, hey, this is what I'm coming up with. I  
12 think this is an oral warning?

13 A. Yeah. Essentially, it's a validation.

14 Q. Okay. So you go to her already with your own idea of  
15 what the appropriate result is, and then you're checking  
16 with her to make sure that sounds right?

17 A. Depending on the procedure, absolutely. If there is a  
18 procedure violation, yes.

19 MR. SELEMAN: Okay. Nothing further.

20 MR. MOORE: I have nothing else.

21 HEARING OFFICER CORA: I have one quick question. Have  
22 you ever made a recommendation and disciplined someone in  
23 your team?

24 THE WITNESS: Possibly. It's been a long time, but yes,  
25 pretty sure.